

## SENATE.

THURSDAY, February 13, 1913.

(Legislative day of Tuesday, February 11, 1913.)

The Senate reassembled at 12 o'clock meridian on the expiration of the recess.

Mr. GALLINGER. Mr. President, I would suggest the absence of a quorum.

The PRESIDENT pro tempore (Mr. BACON). The Senator from New Hampshire suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clark, Wyo.	Kenyon	Root
Bacon	Crane	La Follette	Sheppard
Bankhead	Crawford	Lodge	Simmons
Borah	Cullom	McLean	Smith, Mich.
Bourne	Cummins	Martin, Va.	Smoot
Bradley	Curtis	Martine, N. J.	Stephenson
Brady	Dillingham	Myers	Sutherland
Brandeggee	Dixon	Nelson	Swanson
Bristow	du Pont	Newlands	Thornton
Brown	Foster	Overman	Tillman
Bryan	Gallinger	Owen	Townsend
Burnham	Gamble	Page	Warren
Burton	Gronna	Percy	Webb
Catron	Jackson	Perkins	Wetmore
Chamberlain	Johnston, Ala.	Pomerene	Williams
Clapp	Jones	Richardson	Works

Mr. ASHURST. I was requested to announce that the junior Senator from New York [Mr. O'GORMAN] is absent attending to business of the Senate.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 64 Senators have responded to their names, and a quorum of the Senate is present. Senate bill 8033 is pending.

## CONNECTICUT RIVER DAM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. ROOT. Mr. President, there has been a good deal of discussion about this bill which has proceeded upon an impression as to the effect of the legislation proposed as a precedent; and as almost always happens in a discussion of that character the true nature of the bill before the Senate has been somewhat lost sight of, and many questions have been discussed which do not really arise upon this measure.

Let me try to state what I understand to be the true nature of the proposed law which the committee has reported. It proposes to give the assent of the United States to the Connecticut River Co., a corporation organized and doing business under the laws of the State of Connecticut, to relocate its Enfield Dam, so called, and to construct, maintain, and operate such relocated dam, as described in the act, with a proviso that the work shall be in accordance with the general dam act of 1906, as amended by the act of June 23, 1910; and it imposes as a condition of the giving of consent by Congress a provision that a reasonable charge upon the proceeds realized from the sale of water power which will be developed by the construction of the dam shall be paid over to the United States, to be applied in improving the navigation of the Connecticut River and the waters connected therewith.

There is no question involved here of title of property, of franchise, of conveyance whatever. The Connecticut River Co., which is proposing to construct this dam, owns all the property which it requires. It is the riparian proprietor. It does not ask from the United States a grant of property. The Connecticut River Co. has a franchise from the State of Connecticut, which gives it corporate capacity to erect the proposed dam upon and through the use of the property that it owns, and which gives it the right of eminent domain through which it may acquire any further property that may be needed. It does not ask the United States to confer upon it any franchise of any description whatever.

The only thing that the proposed statute undertakes to do is to give the consent of the United States, as the protector, the guardian, the promoter of navigation upon the navigable streams of the United States, to the erection of this dam upon the property of this corporation under the authority of the State of Connecticut.

Mr. WORKS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from California?

Mr. WORKS. May I ask the Senator from New York a question?

Mr. ROOT. Certainly.

Mr. WORKS. Assuming what the Senator has said with respect to the franchise owned by the Connecticut River Co. and its ownership of the property as a riparian owner, would not the company have the right to divert the waters of the stream for its use so long as that diversion did not interfere with the navigable quality of the stream?

Mr. ROOT. It depends upon the action of the United States. If the United States chose to give its consent, it would.

Mr. WORKS. Has the United States any power to withhold its consent, so far as the mere matter of the diversion of the stream for beneficial purposes is concerned, except to preserve the navigable quality of the stream?

Mr. ROOT. It has.

Mr. BORAH. Mr. President—

Mr. ROOT. I yield to the Senator from Idaho, and when he has asked his question and I have answered it, if I am able to, I will ask to be allowed to proceed with what I have perhaps mistakenly considered to be an argument.

Mr. BORAH. I do not think the Senator will make any mistake about that; he never does. I was going to say that that raises the particular question about which we of the West are so greatly concerned, and if I do not interrupt the Senator's able argument I should like before he concludes that he would state for our benefit what right the National Government has in a stream except to protect navigation.

Mr. ROOT. I will try to do so, Mr. President.

Mr. WORKS. Mr. President—

Mr. ROOT. I was relieved when the Senator from Idaho finished his sentence regarding the raising of particular questions, for it would seem to me that this bill has raised not only particular questions, but particular disturbances.

The PRESIDENT pro tempore. Does the Senator from New York yield further to the Senator from California?

Mr. McLEAN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Connecticut suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	Kenyon	Smith, Ariz.
Bacon	Curtis	Kern	Smith, Ga.
Bankhead	Dillingham	La Follette	Smoot
Borah	Dixon	McCumber	Stephenson
Bradley	du Pont	McLean	Sutherland
Brady	Fletcher	Martine, N. J.	Swanson
Brandeggee	Foster	Myers	Thornton
Bristow	Gallinger	Newlands	Tillman
Bryan	Gamble	Overman	Townsend
Catron	Gardner	Owen	Warren
Chamberlain	Gore	Page	Webb
Clarke, Ark.	Gronna	Perkins	Wetmore
Crane	Guggenheim	Pomerene	Williams
Crawford	Jackson	Root	Works
Cullom	Jones	Sheppard	

Mr. ASHURST. I wish to announce that the junior Senator from New York [Mr. O'GORMAN] is absent on business of the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 59 Senators have answered to their names. A quorum is present. The Senator from New York will proceed.

Mr. ROOT. I yield to the Senator from California, who was about to ask a question.

Mr. WORKS. Mr. President, I am sorry to interrupt the Senator from New York after the statement made by him that he does not desire to be interrupted, but I asked him because the question presents the crux of this whole matter so far as I am individually concerned. I am morally certain that the answer of the Senator from New York is absolutely wrong, and I am equally certain that the Government, in dealing with this question, is acting upon precisely that wrong theory of the law relating to this subject.

Mr. ROOT. Mr. President, if I were less certain myself I should be shaken in my position by the expression of the Senator from California, for whose judgment I have very high regard. I wonder if the Senator from California realizes just what his question was; I wonder if the Senator from Idaho [Mr. BORAH] realizes just what his question was. Perhaps I have mistaken them, but I understood—

Mr. BORAH. Mr. President—

Mr. ROOT. I understood their questions to be whether the United States had any interest or right except to protect navigation or to preserve navigation—one of those words was used, I think one by one Senator and the other by the other—"to preserve or to protect navigation."

Mr. WORKS. Evidently the Senator from New York has wholly misapprehended my question.

Mr. ROOT. I may have misapprehended the question the Senator from California meant to ask, but I think I accurately recall the question he actually asked.

Mr. WORKS. I think the Senator from New York is equally mistaken in that respect. My question was whether the Government of the United States had the right to prevent a riparian owner upon a stream from diverting water for beneficial uses so long as that diversion did not in any way interfere with the navigable quality of the stream?

Mr. ROOT. Yes. I have answered that question; but the other question was entirely different. The question was put as to whether the United States had any right or power except to preserve navigation.

Mr. BORAH. Mr. President, I put that question, and I repeat it, in order that the Senator may not be mistaken. What I want to know is, what right and what power the National Government has in the water of a stream other than to keep that stream open for navigation and to control it for that purpose?

Mr. ROOT. Mr. President, that is another question, but I think the Senators must assume that I would not undertake to detain the Senate on that subject without expressing some views on that particular point.

The right of the United States and the correlative duty of the United States in respect of navigable streams or streams that are capable of being made navigable is not only to preserve and to protect, but it is to promote, and, if it seems it wise, to make navigation; and the whole system—

Mr. BORAH. Mr. President—

Mr. ROOT. I want the Senator from Idaho to let me go on—the whole system, the great system of slack-water navigation, upon which we are spending money by the millions, is in the exercise of that function of the National Government to make navigation, not merely to preserve it, not merely to protect it, but it is to promote it, to extend it, to create it, and if, in the judgment of this Government, the diversion of the water from any stream is likely to interfere with the Government's making it navigable, it is the right of the Government to prevent that diversion.

Now, let me say that it is in the exercise of that function that a large part of the river-improvement work of the United States of recent years has been carried on. I will illustrate by recalling the minds of Senators to the improvement on the Ohio, on the Monongahela, on the Muskingum, the Little Kanawha, the Great Kanawha, the Big Sandy, the Kentucky, the Green, and the Barren Rivers. The United States is engaged in creating waterways which shall furnish control over the cost of transportation, creating waterways that will furnish new avenues of transportation, and it is entitled, it is its duty, to look ahead and see where not only to-day but to-morrow and next year and in the next generation it may be found for the best interests of our people that water communication shall be created by the methods of modern engineering.

It is well settled, of course, we all recognize, that the United States has plenary power to enter upon a system of river improvement, and if there be obstructions require them to be removed, or, if they are not removed, to remove them itself in order that it may discharge its function. It is well settled that a State has the right and the authority paramount over the rights of riparian proprietors to improve the navigation of the streams within the State for purposes of intrastate commerce, and that the United States has still paramount authority whenever that navigation forms a part, as it ordinarily does, of the avenues of interstate or foreign commerce to supersede the action of the State and itself to improve and to create navigation; and it is for the protection of that right and duty of the United States that it is made necessary to obtain the consent of the United States whenever anyone wishes to do work which will obstruct navigation. The consent in ordinary cases under the general law of an officer designated by Congress—ordinarily the Secretary of War—is required to excavations and constructions in navigable waters of the United States under the provisions of the river and harbor act of 1909, I think, which have been carried along since that time.

As to the building of dams, the consent of Congress has to be obtained, and we have passed carefully framed statutes to regulate the form in which the authority shall be granted and in which it shall be exercised.

Now, let me undertake to state some very simple propositions regarding the exercise of this power of the United States in regard to protecting the field of future navigation and the field of present navigation. The consent of Congress must be obtained for the building of a dam, whether that dam affects present navigation or prospective navigation.

The first proposition that I make—and it seems almost too simple to take up time in stating—is that Congress has the power to give or to withhold its consent to persons or corporations seeking to build a dam in a navigable river or a river that can be made navigable, whether that dam will or will not create water power.

Second. The power to give or to withhold the consent of the United States to the building of such a dam results from the right and duty of the Government to preserve and improve navigation under the commerce clause of the Constitution.

Third. The power to give or withhold consent to the building of a dam is absolute and uncontrolled, except by the discretion and judgment of Congress. No power on earth can compel Congress to give its consent or compel Congress to withhold its consent. That power is vested by the people of the United States in their Congress. No court can mandamus it; no court can enjoin it; no Executive can control it. The judgment of Congress alone must determine whether the consent be given or be withheld.

Fourth. The just exercise of the power to give or to withhold must be determined by reference to the object to attain which the power has been granted, and that is the object of preserving or improving navigation.

Fifth. Congress may impose conditions upon the consent which it gives in the exercise of its power to give or withhold. This right to impose conditions is inherent in the power. The right to give or to withhold carries necessarily the right to say, "We give, provided such and such things are done; otherwise we withhold," and that power to impose conditions is illustrated by the statutes which are ordinarily spoken of as the general dam laws. The statute of June 23, 1910, provides:

That in approving the plans, specifications, and location for any dam, such conditions and stipulations may be imposed as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate, without expense to the United States, in connection with any dam and accessory or appurtenant works, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress at any time may deem necessary in the interests of navigation, in accordance with such plans as they may approve, and also that whenever Congress shall authorize the construction of a lock or other structures for navigation purposes in connection with such dam, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building and operating such constructions: *Provided further*, That in acting upon said plans as aforesaid the Chief of Engineers and the Secretary of War shall consider the bearing of said structure upon a comprehensive plan for the improvement of the waterway over which it is to be constructed with a view to the promotion of its navigable quality and for the full development of water power; and, as a part of the conditions and stipulations imposed by them, shall provide for improving and developing navigation, and fix such charge or charges for the privilege granted as may be sufficient to restore conditions with respect to navigability as existing at the time such privilege be granted or reimburse the United States for doing the same, and for such additional or further expense as may be incurred by the United States with reference to such project, including the cost of any investigations necessary for approval of plans and of such supervision of construction as may be necessary in the interests of the United States.

The act which is now before Congress reproduces by reference these conditions from the act of 1906, as amended June 23, 1910, and imposes a single further condition. I have ventured to take the time of the Senate in reading this condition imposed by existing general law, because I think in this discussion we have wandered far away from the true nature of the particular bill which is reported by the committee. I venture to say to the Senate that this bill does nothing which is not in its nature identical with the imposition of the conditions contained in these general dam acts.

Mr. CUMMINS. Mr. President, I should like to understand one proposition that the Senator from New York announced a moment ago.

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Iowa?

Mr. ROOT. I yield.

Mr. CUMMINS. Possibly I misunderstood it, but as I heard it the Senator from New York declared that no dam could be constructed in a navigable stream, nor in a stream that might be made navigable, without the consent of Congress. Have I correctly stated the proposition?

Mr. ROOT. The consent may be an implied consent with regard to a nonnavigable stream. If Congress should undertake to make the stream navigable, it can sweep away the dam that has been built, require it to be removed, or remove it itself.

Mr. CUMMINS. But the Senator from New York did not mean to say, I assume, that a dam built across a nonnavigable stream becomes instantly an unlawful structure?



Mr. ROOT. No; I did not. I do not consider that it does.

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Idaho?

Mr. ROOT. Yes.

Mr. BORAH. The Senator stated a few moments ago that we could not compel Congress to give its consent to the construction of a dam, and therefore when it did give its consent it could attach such conditions to it as it saw fit. That is true, in a certain sense, but suppose I put the reverse of that proposition. Suppose some one does construct a dam in a navigable stream, and he is asked to take it out, and he discloses beyond question that it does not interfere with navigation, can he be compelled to take it out?

Mr. ROOT. Mr. President, Congress itself, the Government of the United States itself, must be the judge of that.

Mr. BORAH. Mr. President, I dispute that proposition. The Supreme Court of the United States is the judge of that question, and it will determine it. If it does not interfere with navigation, the person who has constructed the dam can not be compelled to take it out.

Mr. ROOT. If it interferes with the purposes of the United States to create navigation, its removal can be compelled.

Mr. BORAH. That does not change the position I have taken. It must interfere with navigation.

Mr. ROOT. Then the position that the Senator takes does not interfere with the position I take.

Mr. BORAH. But it completely answers the proposition that only one party has an interest in the stream.

Mr. ROOT. I made no such proposition at all. On the contrary, I started with the proposition, and I will restate it, that the only interest the United States has is the interest of preserving and promoting navigation or creating navigation.

Mr. BORAH. Mr. President, that is precisely the position I took in regard to it when I asked the question—whether or not the United States had any interest in the stream except that which relates to navigation.

Mr. ROOT. Ah, Mr. President, that was not the question the Senator asked; but I will ask the Senator not to detain me by going back to discuss questions that have been asked and answered.

Mr. BORAH. Very well; I shall not detain the Senator; but I would like the Senator, when he looks over the RECORD, to see that that is the question I asked.

Mr. ROOT. I will now make my apologies to the Senator from Idaho on the assumption that I shall find that he is right and I am wrong regarding the question that he asked.

I think I was about to state the sixth proposition in the series which I was undertaking to state; that is, that the just limitation upon the conditions to be imposed upon the exercise of the power to grant or withhold consent to the construction of a dam in a stream that is navigable or to be made navigable is to be found in the interest to subserve which the power has been granted to Congress—that is to say, the interest of navigation—and that there is no other limitation upon the just exercise of that power. Congress can not be compelled to grant its consent or to withhold its consent. It may impose conditions upon the granting of its consent, and a refusal to accept the conditions is a refusal of consent. The conditions which it imposes should justly be adapted to promote the interests for which the power to consent was conferred upon Congress—that is to say, the interests of navigation.

The seventh proposition is that Congress alone can determine whether a given condition does or does not subserve those interests. Congress alone can determine the question, because Congress alone has the power to grant or to withhold the consent.

These propositions are so elementary, so simple, that I do not apprehend any controversy about them. But, sir, they lead inevitably to the conclusion that when Congress imposes as a condition of granting consent to the construction of this dam the requirement not only that a lock shall be provided for the passage of vessels but that a part of the proceeds of the water power developed shall be applied to the improvement of navigation of the stream Congress is acting within its power and is performing the duties that the Constitution imposes upon it to preserve and promote the interests of navigation.

There is another line of thought which leads from accepted premises inevitably to the same conclusion. It frequently happens, when one in this illogical world happens by chance to be right, that different lines of consideration will be found converging to the same conclusion. I have reached the specific conclusion of the competency of Congress to impose this condition by considering the nature of the power to give or to withhold consent. Let me now take another line.

The report prepared by the Senator from Minnesota [Mr. NELSON] as chairman of a Subcommittee of the Judiciary of the Senate, acting under a Senate resolution which called upon the Judiciary Committee to give an opinion regarding the power and authority of the National Government over the development and use of water power, treats of the power of the Federal Government to take possession of a portion of the stream and of its banks, and to construct works for the purpose of improving or creating navigation. That report has been referred to frequently here in the course of the argument, and I will state just what it is.

In the Sixty-second Congress, I think at the first session, the Senate passed a resolution directing the Committee on the Judiciary to report to the Senate as early as possible at the next regular session of Congress upon the power and authority of the National Government over the development and use of water power within the respective States, following that with a series of specific questions on the subject.

The Judiciary Committee referred that matter to a subcommittee of which the Senator from Minnesota [Mr. NELSON] was chairman; and the Senator from Minnesota prepared a very careful and very able discussion of the subject. With that paper, as a member of the subcommittee, I was prepared to agree in general, and I joined in reporting it to the Judiciary Committee. It was the subject of extended discussion in the Judiciary Committee, and such a difference of opinion was developed in the committee that the committee came to the conclusion that it had better deal with concrete cases than undertake to report to the Senate an essay upon a general topic, and accordingly it has never reported.

In that statement, which was reported to the Judiciary Committee, were some propositions regarding the matter to which I am now addressing myself—that is, the power of the Federal Government itself to construct such a dam as this that is under consideration, and itself to improve navigation by the expenditure of its own money—and the further view, that in case the Government, in the course of improving or creating navigation upon a stream, incidentally develops water power, it has the same right that any other property owner has to make that contribute toward the performance of the work.

Let me read a few sentences from the statement of the Senator from Minnesota:

For the purpose of promoting and regulating foreign and interstate commerce Congress is given plenary power over all the navigable waters of the United States to the end of improving and maintaining their navigability; and this power is not limited to the navigable sections of streams, but extends to the tributaries and feeders of the same, for without the control of these the power over the navigable sections might become wholly impotent. (*United States v. Rio Grande Co.*, 174 U. S., 690.) Neither can any limits be placed upon the methods of improving the navigability of streams nor upon the means by which commerce can be carried on upon the same.

Science has in recent years evoked from the great storehouse of nature the hidden and well-nigh limitless power of electricity and utilized the same in various ways for the promotion of commerce, industry, and the domestic and social well-being of mankind. The bounds of such power and use can not well be defined or foretold. That such power has become and may still much further become one of the great instrumentalities of commerce is evident. While sail, aside from the oar, was the only known motive power on water, the limits of navigation was confined to tidewater. The discovery of steam extended navigation on our streams far beyond the limits of tidewater, and who can tell how much further hydroelectric power generated by a dam in a stream may extend navigation on that or some other stream? The water in a stream may not only be used to float and carry a vessel, a boat, or a barge, but it may also be used to furnish the motive power for the navigation of the same. And a dam erected in a stream carrying interstate commerce can well be utilized for this double purpose; and Congress, having jurisdiction over the improvement and regulation of an interstate navigable stream, has ample power to resort to all reasonable means for the improvement of navigation and the promotion of commerce on such a stream. (*Gibbons v. Ogden*, 9 Wheat., 1.)

If for the purpose of improving the navigability of a stream carrying interstate commerce the Federal Government constructs and maintains a dam, with locks and gates, the Government has the undoubted right to establish and maintain, in connection with such dam, an electric-power plant for the purpose of furnishing motive power to operate such locks and gates. And the Federal Government has the right to sell, lease, or rent, for compensation, any surplus power that may arise from and be an incident to such an improvement of navigation. (*Kaukauna Water Power Co. v. Green Bay & Mississippi Canal Co.*, 142 U. S., 254.)

In considering those statements we must bear in mind that when Congress undertakes to construct a dam it of necessity becomes the riparian proprietor, and, subject to minor statutory modifications in all the States that follow the course of the common law, as Connecticut and Massachusetts have followed it, the riparian proprietor has the right to the usufruct in the flow of the water.

We talk about ownership of water. Senators have discussed the question whether the State owns this water or the riparian proprietor owns this water, and have seemed to be impressed by the idea that the United States was attempting to assert ownership of the water. Mr. President, under the system which



prevails in Connecticut and Massachusetts; and generally in the States following the common law, there is no ownership of running water whatever.

Both the rights of the riparian proprietor and the rights of the State are based upon the old maxim that water runs and ought to run as it has been accustomed to run. The riparian proprietor is entitled to whatever benefit may come from the flowage of the water past his door. Whether the riparian proprietor owns the bed of the stream or the State owns the bed of the stream makes no practical difference, for if the riparian proprietor owns it he owns it subject to the public right of passage and in general of fishery and the public right to have the water flow on for the benefit of all below on the stream.

Mr. President, that does not apply in the States which have established the right of prior appropriation. The so-called arid or semiarid States have adopted, by the necessity of the conditions existing there, a different system, and any discussion of the rights of the Government and of the propriety of legislation in those States would necessarily have to proceed upon different lines and from different starting points than a discussion of legislation relating to water rights in one of the old States which proceed according to the common law.

If the riparian proprietor owns the bed of the stream, he owns it subject to the common right. If the State owns the bed of the stream, the State owns it as trustee for the public, for the preservation of those same common rights, and subject to the rights of the riparian proprietor. There is and can be no conflict between the two, and the question of title to the bed of the stream is quite immaterial.

I have said that when the Government enters upon an enterprise of this kind it of necessity becomes the riparian proprietor, for it can not build a dam without title, and it can not take property without compensation. So it in some manner acquires the title, and having acquired the title its title is good, because it is acquired in the exercise of its clear and unquestionable constitutional rights and the performance of its constitutional duty. The title is as clear as a title to land acquired for a post office or a customhouse or an Army post.

Having title, two things follow: One, that it is entitled to use the property it has acquired for this constitutional purpose in every way that would be lawful for anybody else seeking to accomplish such a purpose; and the other, that it has right to such use of it as any other proprietorship gives to the owner of property. That being so, the right to sell or lease the water power or the electricity created by the water power from the increased flowage caused by a dam built by the Government in the exercise of its constitutional functions to improve navigation is a necessary incident to the performance of the function.

Mr. President, so long as it is competent for the Government of the United States to go upon the Connecticut River and build the dam described in this bill and so long as it is also competent for the United States to apply the power produced by its building of the dam to promote the interests for which it builds a dam, it follows necessarily that the Government of the United States can avail itself of the instrumentality of this corporation to cause the same thing to be done. It has as clear a right to make a contract with this corporation to do that thing which the Government can do itself for the promotion of its interests in the performance of its duty to improve navigation as it has to hire a contractor to dredge the Potomac to improve the Washington channel.

Let me call your attention to the real situation as it exists in the Connecticut River. Three years ago the Board of Engineers for Rivers and Harbors reported to the War Department regarding the improvement of the navigation of the Connecticut River, and in their report occurred this statement, which I read:

The difficulty of surmounting the Enfield Rapids involves such an expenditure that unless water power can be developed in connection with the improvement, the work can not be justified under present conditions. If the coordination of water power and navigation interests can be effected in such a manner as to permit the development of both at a cost to the United States not out of proportion to expected benefits to general navigation and commerce, the improvement will become justifiable.

There is the attitude of the United States toward this improvement of navigation. Then comes to the Government of the United States the Connecticut River Co. and says, "We will improve this navigation if you will give your consent that we build a bigger dam than we have now. We will improve this navigation; we own the banks; we have the corporate capacity and the authority from the State of Connecticut; and if you will consent we will do what your engineers have declared you could not afford to do unless the expense could be in some part borne by the power that was created." And the United States in this bill will say, if we pass it, "Yes; we will avail ourselves of your instrumentality to do what we could not afford to do except by taking and selling power, provided you will agree that

a reasonable charge upon what you make by the end of the business that you are specially interested in, that is, the water power, shall be turned over to be applied to the improvement of navigation upon this stream and its connected waters. That is to say, we will consent to your improving this navigation provided you will do two things for the benefit of navigation; one, improve the navigation at this point, and the other, contribute to improving the navigation of the whole stream."

Mr. President, a waterway is a whole. Navigation at a particular point does not stand by itself. The streams that we have been working upon for many years we improve step by step, mile by mile, beginning with a dam here, making a pool above it, and going on and building another and another and another. Each is as much a whole as any transcontinental line. The Supreme Court of the United States based its decision in the Rio Grande case in the one hundred and seventy-fourth United States upon that proposition, that although the portion of the Rio Grande, the treatment of which was called in question, was not navigable, nevertheless, the Rio Grande must be treated as a whole, and the treatment of that nonnavigable part must be considered with reference to its effect upon the navigation of the lower part of the stream. Therefore, Federal authority could deal with it.

Upon no other ground, sir, do we justify ourselves in the purchase of Appalachian forest reserves except to preserve and give out gradually the water which flows down through the navigable streams of the Atlantic seaboard.

From the mouth to the source and in all the contributory feeders a water system of navigation must be treated as a whole; and that is what this condition does.

It treats the Connecticut River system of water transportation as a whole, which, for example, will enable the people of that region, that hive of industry, to have the benefit of competition with the New York & New Haven Railroad.

The justice of the remarks which I have just made is very acutely presented by a consideration of the charter of the Connecticut River Co. Something was said here the other day about the motive of building this dam, and I undertook then to say that there were ordinarily two motives in such a transaction. Some Senator had been speaking about the motive of this company as being to create power and not to improve navigation. It seems quite plain that in most transactions in this world there are two motives. If I get upon a street car to go from the Capitol to my home, my motive is to get home; the motive of the street car company is to get my 5-cent piece. It is difficult to conceive of a bargain in which the promisor and the promisee have not each a different motive. In this case, Mr. President, I assert that the motive of the United States is the improvement of the navigation of the Connecticut River system of water transportation and that, if this bill be passed, we shall be availing ourselves of the willingness of this company to subserve that great constitutional purpose of our Government in no other way than I avail myself of the service of a street car to subserve my purpose of getting to my home from the Capitol. The fact that the company may have a desire for a profit does not affect the rights, powers, and duties of the United States Government to go on and subserve the interests of navigation upon that river any more than the fact that a dredging contractor is moved by the motive of profit rather than the motive to improve the stream which the Corps of Engineers employs him to dredge.

But, sir, this company is a company formed by the State of Connecticut to improve navigation. Its lawful purpose is and has to be to improve navigation. Here is their charter, passed in May, 1824:

*Resolved by this assembly—*

*The Assembly of Connecticut—*

That John T. Peters, David Porter, Charles Sigourney, with all such persons as are or may be associated with them for the purpose of improving the boat navigation of Connecticut River, and their successors, be, and they are hereby, incorporated and made a body politic, by the name of The Connecticut River Co.

The charter goes on to say, after various details of organization:

SEC. 7. That said corporation, for the purpose of widening the channel of said river, and deepening the same, shall have power to dig, cleanse, and remove obstructions from the channels and bars of said river, from and above the bridge at Hartford, to Springfield, and to erect and build wharves and piers and hedges in said river or on the banks thereof, as they may judge necessary.

And said corporation is empowered to lock the falls at Enfield on said river, and to make channels to aid them, and to construct a canal on either bank of said river, near said falls, and to construct a dam or dams for the purpose of entering and leaving the locks in still water, provided the extension and form thereof shall be such as shall not prevent the convenient passage of boats and lumber down the river, nor obstruct the passage of fish; and said corporation shall have the right to procure and possess any steamboat or boats which they may judge necessary to commerce on said river.



Then there is the right of eminent domain; there is the right to purchase and hold stock of the several incorporated lock and canal companies upon the Connecticut River; there is the right to impose tolls upon boats passing up and down the river. There is a provision that—

Whenever the profits accruing to said corporation shall be more than 8 per cent over and above the annual expenses of improvements on said river, and the repairs of said locks and canals, and the works connected therewith, the commissioners shall have the right to reduce the toll allowed by this act.

Then there were from time to time amendments, one of which was passed in 1825, providing:

The capital stock of said company, so far as shall be deemed necessary and expedient, may be expended between Hartford and the north line of this State to Longmeadow and West Springfield in the State of Massachusetts, and also in improving said navigation above this State toward the sources of Connecticut River and toward Lake Memphremagog in the State of Vermont, as far as shall be deemed practicable and expedient, lawful authority for so doing being had and obtained.

That is from Vermont or Massachusetts.

You will perceive, sir, that this charter is a charter which looked to the improvement of the whole stream, the creation of a transportation line by the Connecticut River Co.

Mr. BRANDEGEE. I will say that the company was also incorporated by the State of Vermont.

Mr. ROOT. So I understand. I think I have read enough to indicate the character of this corporation, with the added statement of the Senator from Connecticut [Mr. BRANDEGEE] that it also received a charter from the State of Vermont consistent with this legislation of Connecticut. So, sir, we have a navigation company chartered by the States of Connecticut and Vermont, whose sole corporate purpose is to improve navigation, coming to the United States, whose sole constitutional purpose is to improve navigation, and it appears that the powers which this company had from the State of Connecticut and the powers which the United States Government has under the Constitution to improve navigation, which have lain dormant with regard to this river because it would be too expensive to make the improvements, may be called into activity by reason of the fact that, under the new discoveries in electrical engineering, it is possible to make the fall of the water over the dam that is necessary to improve the navigation contribute toward the performance of the work.

Here is something that this company was chartered to do, and which it can do if we consent; here is something that we have the constitutional power and duty to do. As a condition of our consent, instead of the company taking all the profit that comes from the fall of water at this particular point and putting it in their pockets, we impose the condition that they shall apply a reasonable amount toward the performance of their and our full duty, which is improving the navigation of the whole stream.

Mr. SMITH of Arizona. Mr. President, at that point will the Senator from New York permit me to interrupt him? I am much interested in his argument.

The PRESIDING OFFICER (Mr. FOSTER in the chair). Does the Senator from New York yield to the Senator from Arizona?

Mr. ROOT. Certainly; I yield.

Mr. SMITH of Arizona. The Senator concedes that they have a right to make this charge, but what application are they to make of it? How far can the Government apply the money obtained from these sources? In other words, must not the money brought from this power into the Treasury of the United States be used exclusively in the navigation of the stream, or can they devote it to a separate purpose?

Mr. ROOT. Mr. President, I conceive that the fund would be a trust fund in the Treasury of the United States, applicable only to the improvement of the navigation of that stream, using the term "that stream" in its comprehensive sense, with its feeders and connections. I conceive that to be quite clear from the language of this bill, and I think that it is right that it should be made so; although, sir, I do not consider that it is by any means clear that the Government of the United States may not create a general improvement fund, which might be used for the improvement of navigation elsewhere than upon the stream from which a particular fund comes. That question is not raised here, however. This bill proposes to confine the application of this trust fund to the improvement of the navigation of this river, to confine it to substantially the same limits which are laid down in the charter of this company as the measure of its duty.

Mr. President, there are two general considerations which affect this bill. I conceive that it does not materially affect the interests of the arid and semiarid States. I conceive that it does not raise any question about title or property or corporate franchises whatever. It is a simple case of the Government being asked for the same kind of consent that it has

given a thousand times, and to impose a condition—a thing that it has done a hundred times—which is limited in its character to the attainment of the purposes for which the power to give or withhold consent is granted Congress, to impose a condition which will accomplish nothing more than the Government itself could accomplish by having contractors go on and do the work. I think the competency of Congress to pass the law and the justice and the wisdom of its passing the law are clear.

As I have said, however, there are two general considerations which have been much referred to in the discussion, both of which, it seems to me, lead to the same conclusion and tend to strengthen the duty of Congress to grant this consent upon this condition. One is the general consideration of the improvement of navigation. Of course we are in this country very far behind many of the older countries on the other side of the Atlantic in the provision which we have made for water communication. Our Government has spent many, many millions of dollars in improving the navigation of our streams; it has constantly engaged in that work; but, nevertheless, we are far behind the older countries. In recent times we have been developing a system of slack-water navigation, by which it is possible to carry water navigation far up into the region of the hills through which our great streams flow, and to give to the people living in the uplands the benefit of water lines in competition with the railroads; but it costs very much more to do that than it does to improve the navigation of streams running through level country. You can dredge out the channel of a stream such as the Hudson at comparatively little expense; but the State of New York is spending over a hundred million dollars in canalizing the Mohawk River, which runs through the hills by my own home, and the Oneida and Oswego Rivers, and in constructing canals to connect them with each other and with Lake Erie.

The question, I think, we ought to ask ourselves is, How shall we decide as between three possible courses of conduct? One is to do as we have, in general, done in the past, refrain from improving because it costs too much, costs more than the business to be developed would justify; or, second, shall we go on and improve these streams and tax the entire people of the country for the improvement? Or, third, shall we avail ourselves of this new discovery by which a stream can be made to improve itself, by which a stream can be made to pay the expense of fitting itself for navigation, so that this great work of internal improvement may go on? Which of the three shall we do?

Mr. President, of course it is very desirable that the flowage of streams converted into electricity shall be made available for the uses of the inhabitants along their banks; but is there nothing to be said for the paramount right, the paramount duty, we have to promote navigation? Is that to be left out of consideration when we are thinking of the possible utilities of this great new wealth that has been discovered, a wealth that riparian proprietors never dreamed of when they got their title to their lands? When for the public interest, when for the benefit of all the people of all our country, we consider the exercise of our paramount power as to the utilization of this new and hitherto unsuspected wealth are we to leave out of consideration altogether the one interest that we are charged by the Constitution with subserving, maintaining, and advancing?

This provision undertakes to discharge the duty of the Congress of the United States, as the preserver and promoter of water navigation, by requiring that a little fragment of this new wealth to be realized with our consent by this company, also bound to subserve navigation, shall be applied to that paramount purpose in this stream—a little fragment of it.

Mr. THOMAS. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Colorado?

Mr. ROOT. Certainly. It is very pleasant for me to see the Senator from Colorado renew the situation of 30 years ago, when we first met in the Supreme Court of the United States.

Mr. THOMAS. Yes, Mr. President; that was our first meeting, with the Senator upon one side and myself upon the other, in an important controversy in which I was, of course, unsuccessful.

Mr. BRANDEGEE. I hope it was a parallel case to this.

Mr. THOMAS. Not entirely. My purpose in interrupting the Senator was to correct a possible impression which I might have created yesterday in my remarks upon this bill.

I recognize the paramount authority of the Government of the United States over navigable streams and its duty to all the people to improve them for purposes of navigation. But does not the Senator lose sight of the fact that this paramount power is being utilized as an agency or medium, through the

operations of the Government or by contract with private parties, whereby improvements in water power are effected? In other words, is not this great sovereign attribute of the National Government being utilized and degraded into an agency for the production of water power to generate electricity as an asset in the hands of these great corporations?

Mr. ROOT. Mr. President, that is a queer view to be suggested in support of opposition to requiring this great corporation to pay something to promote navigation. As I look back at the case in the Supreme Court of which we were speaking, it was nothing but the fact that I happened to be on the right side of the case that led to the conclusion the Senator has mentioned; and I am afraid he is in as bad luck now as he was then.

Mr. THOMAS. On the contrary, I may be in as bad luck in the outcome. But the fact that this great corporation is willing to spend huge sums of money in order that it may acquire a profit to itself, and is ready to agree, as the Senator from Ohio [Mr. BURTON] said, to enter into this agreement and to perform it, indicates that its purpose is to obtain, through the agency of the Government, a property in water which belongs either to the riparian owner or to the State, or to both, under the pretense that it is engaged in promoting and developing the navigability of the river.

I do not think any such power should be used for such a purpose unless it is done openly and without any pretense that it is being done for the improvement of navigation, independently of the fact that the power or the property, whatever it may be, which is created, instead of belonging to the Government, belongs either to the riparian proprietor or to the State, or both; so that the agency of the National Government in the exercise of a sovereign power is developed into a proprietary right and then conferred upon private parties for their benefit.

Mr. BANKHEAD. Mr. President—

Mr. ROOT. Mr. President, I am about concluding, and I will ask the Senator not to interrupt me further. I want to answer what has been said by the Senator from Colorado.

As I have already stated, this corporation, which is not a very big one, is the riparian proprietor, and it has from the State a grant of power and authority to do this thing. There is not anybody concerned but that corporation, trying to do what it was incorporated for, and the Government of the United States, trying to have it do what it was incorporated for. Of course it would not do it unless it could make some money out of it. Why should we spend our time objecting to having things done by people who are willing to do them when we can not compel them if they are not willing to do them? Of course this company expects to make money out of the power. What is objected to in the case of this bill is that we are going to require them to pay over part of the money they make toward the improvement of navigation.

Mr. THOMAS. That is not my objection.

Mr. ROOT. I am glad to hear the Senator say that. Perhaps he will vote for the bill, then.

Mr. THOMAS. No, no.

Mr. ROOT. In every transaction, sir, there are two motives. The seller has one and the buyer has another. The passenger has one and the railroad company or the steamboat owners have another. The Government, charged with improving navigation, finds that a corporation is willing to do for it what it can not conveniently or profitably do for itself to subserve its object. It has one object; the corporation has another. We would not consent to this if it were not a benefit to navigation. They would not ask the consent if it were not a benefit to their pocket. The question is whether there is reason in the proportion of things. The question is so often, however, whether the benefit to the pocket of the corporation is not a million times the advantage it gives to the public. The opposition to this bill is based upon the very provision which requires the corporation to contribute toward the object for which it was chartered and toward the object to which we are asked to give consent, instead of taking all the profit to itself.

Mr. THOMAS. Mr. President—

Mr. ROOT. I will conclude in a moment.

Mr. THOMAS. I should like to ask a question of the Senator.

Mr. ROOT. I will conclude in a moment and give the Senator full opportunity to discuss the matter.

There is one other great subject which this discussion touches, and any consideration of that, I think, must tend toward approval of the bill rather than toward opposition to it. That is the general subject of conservation.

Of course every candid mind familiar with the history of the growth and development of our country must realize that in the extravagance of our vast natural wealth the Government has

given away franchises and property with a lavish hand, and that probably the time has come when it would be wise and reasonable for Congress, as trustee for the people, to exercise somewhat more care in conferring upon individuals or particular corporations large blocks of our natural wealth. The lavishness with which our natural wealth has been portioned out has applied equally to the States. Some States have been cautious, but some States have been very incautious and reckless in the way in which they have granted franchises and property rights to corporations. I think there is a general feeling throughout the country among the people of the States that there ought to be greater restraint exercised in that respect by the State governments.

We were waked up to that situation by a tremendous row being made. It required somebody to stand up and scream loudly before we realized it. I think reasonable, candid, thoughtful men must come to the conclusion, when they consider that subject, that we are under obligations to certain gentlemen who made so great a noise about this subject as to rivet the attention of the people of the country upon it. There are some Members of this body to whom I make my acknowledgment for the activity, the ability, and the persistency with which they have demanded attention to this subject.

The first thing that was done, and, in the nature of things, the first thing that could be done toward accomplishing this object was to put a stop—and we put a stop here in Congress and in our National Government—to the process as it applied to handing out valuable things that belonged to the people of the United States. In the nature of things, also, the complete stoppage of the process presently led to inconvenience, and people began to complain. We had a joint committee here, on which I sat for months, listening to testimony in which the two ideas were exhibited. I refer to the Ballinger committee. It was quite plain that there were two ideas, each one an idea that nobody need be ashamed of, but coming in conflict, because neither had adjusted itself to the other—the idea of stopping the wasteful and extravagant parceling out to individuals of the property of the whole public and the policy of utilizing our wealth for the benefit of the people of the country, and that can not be done without leaving somebody to make a profit by the utilization of that wealth.

A good deal of the opposition to this bill is the result of an impatience that is felt, and very naturally felt, by people in the West, over the long continuance of the cessation, the halt that was called, in order to prevent undue extravagance and lavishness and favoritism and all sorts of abuses in the way of handing over to individuals and corporations the public wealth.

The third step which must follow, if we do our duty and understand our business, is not to go back to the old plan of handing out public property to oblige this, that, and the other man because it will make activity and expenditure, but to evolve some reasonable method by which these great natural resources shall be not held for far-distant generations alone, but utilized in such a way that the public will get its fair benefit, and the individual will get only his fair benefit.

Nobody is going to dispute any of the things I have been saying for several minutes past. What is the conclusion? It is that when we deal with this bill we should deal with it, not upon the old plan, not upon the plan of stagnation, but trying to apply a reasonable view as to what shall be done in this instance in regard to the utilization of the wealth and the productive power that exists in this country.

Mr. President, you can not solve the question solely by reference to the old rules of property. They are not wholly adequate to produce a satisfactory conclusion. I am not afraid of having anybody think that I am unduly iconoclastic—

Mr. CLARKE of Arkansas. Progressive.

Mr. ROOT. Or progressive; not unduly so. I used to be a reformer; but I rode on a freight train, and the express train went by so fast that I seemed to be standing still. So I say I am not afraid of being misjudged in that direction when I say, as I do, that the old rules of property, which I would not disturb on any account—property which is one of the bases of civilization, and which we must protect—do not by themselves alone lead to an altogether satisfactory conclusion on this subject.

One reason why is that modern discovery and invention have produced a realization of the existence of wealth wholly unknown before. When this company was chartered by the State of Connecticut no one dreamed of any source of income for the company except from tolls. You see the charter treats of tolls and the regulation of tolls, how much they can charge and how they may be regulated.

It appears that now in doing the very work that was contemplated by this company for the improvement of navigation



out of which they expected to get a moderate profit by tolls they are creating wealth beyond the dreams of avarice. Nobody knew it when the charter was granted. Nobody knew it when the people bought their land. Nobody knew it when they exercised their right of eminent domain and took land from the farmers there.

All over the country there are vast reservoirs of wealth the existence of which nobody knew when lands were settled under the homestead act, when lands were purchased and when lands were granted; and while we must preserve the rights of the owners, yet so far as those rights are subject to lawful control, so far as those rights are subject to laws that existed when the titles were acquired, to laws under which the titles are held, so far we ought to see that by the application of those laws in lawful ways and without taking away anybody's right we give to the whole people of the United States such benefit from this great new work as they may lawfully have.

I say, sir, that the truest policy and the highest respect for every object which government is designed to subserve dictate that when we exercise an undoubted legal power and impose a condition upon the use by this corporation of this property some slight part of the wealth produced shall be devoted to the improvement of the navigation of that stream for the common benefit of the people of the United States.

Mr. WORKS obtained the floor.

Mr. BANKHEAD. Will the Senator excuse me one moment?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Alabama?

Mr. WORKS. Certainly.

Mr. BANKHEAD. Before the Senator from New York takes his seat I should like to call his attention to a provision of the bill which he has been discussing so ably, and I should like to have his view about it some time, a little later, if he prefers to make it later.

Section 3 of the bill requires the Connecticut River Co. to construct a lock and equip it under the direction of the Secretary of War and the supervision of the Chief of Engineers, and the bill provides that when thus completed it shall be turned over to the United States Government free of cost. The bill makes no provision whatever for the company to turn the dam over to the Government. Therefore the Government is the owner of the lock and the Connecticut River Co. is the owner of the dam.

The inquiry I wanted to make is, if there is a power created out of this situation, whether it is in the lock which the Government owns or in the dam which the private company owns. There can be no power unless it is produced by reason of the construction of the dam which belongs now and always has belonged to the private owner. If there is surplus water and that surplus water is utilized for power, it is a surplus not needed at all for navigation. Does the Senator from New York think it does not properly belong to the owner of the dam?

Mr. ROOT. Mr. President, I think it properly belongs to the owner of the dam, subject to a charge imposed by this bill upon it as a condition to granting consent to build it.

Mr. BANKHEAD. I understand that.

Mr. ROOT. The Senator from Alabama asks whether the power is in the lock or in the dam. The power comes from the flowage of the water which is raised above the level by the dam. The lock does not produce any power.

Mr. BANKHEAD. Of course not.

Mr. ROOT. The dam raises the water and the fall of the water produces the electric power.

Mr. BANKHEAD. Certainly.

Mr. ROOT. The Senator from Mississippi [Mr. WILLIAMS] suggests to me a question which I will make bold to put to the Senator from Alabama, and that is whether the egg produces the chicken or whether the chicken produces the egg.

Mr. BANKHEAD. Mr. President, one word further and I am through. The Senator's argument on this whole question reminds me of two boys who went fishing. As they went along one said to the other, "If you will furnish the pole, and the line, and the hook, and the bait, you can have half the fish you catch." The other said, "Well, I will take what I catch, and you may have what is left." That is the whole question here.

#### PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts and joint resolution:

On February 7, 1913:

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution.

On February 11, 1913:

S. 3225. An act providing when patents shall issue to the purchaser or heirs of certain lands in the State of Oregon.

On February 12, 1913:

S. 7160. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

SENATOR FROM COLORADO.

Mr. GUGGENHEIM presented the credentials of JOHN FRANKLIN SHAFROTH, chosen by the Legislature of the State of Colorado a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

Mr. BRANDEGEE. Mr. President—

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Connecticut?

Mr. WORKS. I yield to the Senator.

Mr. BRANDEGEE. I did not object to the reception of credentials, of course, but I hope as the matter will appear in the Record it will not be appealed to as a precedent for violating the unanimous-consent agreement. Under it no morning business is allowed.

The PRESIDING OFFICER. The Chair holds that the filing of the credentials of a Senator elect is a question of the highest privilege.

CONNECTICUT RIVER DAM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. WORKS. Mr. President, the people of my State have a deep and an abiding interest in the question presented by this bill. We believe thoroughly in the doctrine of the conservation of the natural resources of the country, for with us the conservation of the waters of flowing streams in the State is a practical question. We are not in favor of conserving the waters in the streams to look at as they flow down to the sea, but for actual use by the people of the State.

It is for that reason, Mr. President, that I shall take up a very little of the time of the Senate in discussing the pending bill. In order to consider it intelligently, we must distinguish clearly in the beginning between the right of the National Government to deal with the question of the navigability of a stream and the right of the States and their inhabitants to use the waters of a stream for beneficial purposes.

The Senator from New York [Mr. ROOT] has stated very broadly the right of the Government in that respect. I am not disposed to question his view of the law with respect to the power of the Government to deal with the question of the navigable quality of a stream. For the purposes of this discussion I am willing to concede that the Government has not only the right to protect the navigation of a stream that is now navigable but that it has the right also to promote navigation and to make streams navigable that are not so now.

But when you come to the last proposition you must deal with the people who have acquired rights in the waters of the streams. So far as the use of the water is concerned, so long as it does not interfere with navigation, the Government has no power or control over it. That is a matter which must be dealt with by the States. Any right to the use of the water flowing in a stream, whether it be navigable or nonnavigable, is governed and controlled by the laws of the State and not of the National Government.

The Senator from New York has discussed this question as if it were one solely between the Government and this corporation. He has left out of account entirely the people who may become consumers under the corporation and who will eventually, as I will show after a little, be compelled to pay the charge that is imposed by the Government upon the corporation. What does the corporation care whether the Government imposes this burden upon it or not if it can, under the law, shift that burden to the people who take the power that is generated by the use of the waters of the stream?

In most of the Western States the old common-law right of a riparian owner to the use of a stream has been absolutely abolished by constitutional provision. In some of the States it is declared in terms in the constitution that the waters flowing in the streams in the State belong to the people. That was unnecessary. Without such a provision they belong to the State, and the people are the State. It is only a popular way of declaring the rights of the people of the State to the waters of the streams.

Every State in the West has statutory provisions under which rights to the use of the water in the streams may be acquired.

For example, in my own State we have statutory provisions providing for the filing upon the streams to be diverted for beneficial use by giving notice of the fact. The notice must state the amount of water proposed to be appropriated and the use to which it is to be applied. The right to the use of the water is acquired by complying with this statute. It may be done by a municipality, by the State, or by a private individual. So long as there are waters in the stream unappropriated any individual who may use the water for beneficial purposes has a right to enter upon the stream, make his filling, take out the water, and apply it to those uses.

That may be done, Mr. President, by a corporation that does not expect to use the water for its own purposes but to distribute and sell it to other persons as a means of making money. Whenever the water is diverted by that means and for that purpose the rates to be charged become subject to regulation, not by the National Government but by the State; and when you come to the question of fixing rates it is settled by a long line of authorities, not only in the State but by decisions of the Supreme Court of the United States, that the persons who take the water from corporations of this kind may be charged such rates as will repay to the corporation all of its fixed charges, interest upon its investment, and a reasonable profit to the corporation.

Now, what would be the result in this case under the well-settled rule on that subject? If, upon one of these corporations taking water from the stream for the purpose of carrying the water itself to a beneficial use, as in the case of irrigation or for the development and generation of power, the National Government should impose \$100,000 for that purpose, that amount of money would be charged up by the corporation as a part of its operating expenses, and the consumers would be compelled to pay it. The fact that the money thus acquired by the Government is to be applied to the improvement of navigation on the river makes it no better. In that case the consumers of power furnished by this company will have to bear the whole burden of this improvement, which should, as in other cases, be borne by the whole people.

So there is somebody else interested in this question of the amount to be paid by the corporation besides the corporation itself. In fact, it has very little interest in the question, because it is entitled to have every dollar of the money that it pays out in that way returned to it by the consumers.

Let us apply that condition of the law to the provisions of this bill. It is unfortunate, Mr. President, that the right and desire of the State of Connecticut to have this privilege granted to this corporation should be complicated by the effect it is bound to have upon people in the Western States.

It is said that this is but one case, and that it can not be considered as a precedent that will affect other dealings with questions of this kind; but the truth about it is that that is just exactly what the Government proposes to make it, and that is the policy the Government is insisting upon in dealing with the question of granting rights of this kind.

The bill, after granting the right to construct this dam and lock, has this provision:

*And provided further,* That the Secretary of War, as a part of the conditions and stipulations referred to in said act, may, in his discretion, impose a reasonable annual charge or return, to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the development of navigation on the Connecticut River and the waters connected therewith. In fixing such charge, if any, the Secretary of War shall take into consideration the existing rights and property of said corporation and the amounts spent and required to be spent by it in improving the navigation of said river, and no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return on the fair value of such dam and appurtenant works and property, allowing for the cost of construction, maintenance and renewal, and for depreciation charges.

It is said here, Mr. President, that this is not intended to be a tax upon the water or to interfere with the use of the water, but for the mere privilege of erecting this structure in the stream. But what is the effect of it? The only purpose for which this structure is placed there is to divert and use the waters of the stream, and the tax that it imposes, as I have said already, will be charged up against the consumers themselves. Therefore, whether it is intended to be so or not, it is a direct charge upon the use of the water or the power that is developed by its use.

It is provided in the bill, in substance, that it shall not deprive the corporation of a reasonable return upon the cost of the structure. That shows an utter lack of appreciation of the law as it exists, because it will have no effect under the law upon the returns to be received by the corporation itself, for the simple reason that that charge, as I have already said, is imposed upon the people themselves and not upon the corporation, and could not deprive it of any part of the revenue that it is entitled to receive.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER (Mr. FOSTER in the chair). Does the Senator from California yield to the Senator from Idaho?

Mr. WORKS. I yield to the Senator.

Mr. BORAH. I wish to make a suggestion in that connection. Suppose a public-utilities commission were created in Connecticut—I do not know whether the State has one or not—and this corporation should come before it for the purpose of having its rates fixed, the public-utilities commission in fixing the rates for this corporation would be compelled to include the charge which the Secretary of War is putting upon the corporation for the purpose of fixing rates for the consumers.

Mr. WORKS. Certainly. I have so stated.

Mr. BORAH. It would enter that under the law, not as a matter of discretion but as a matter of necessity, in testing the question whether the corporation was getting any return and its property was not being confiscated. You would have to insert that in the question of the expenditure.

Mr. WORKS. Undoubtedly so. Let me pursue the provisions of the bill a little further in order to show what is really intended by its provisions. There is another provision on page 5:

And the said corporation shall furnish to the United States, free of charge, water power, or power generated from water power, for operating and lighting the said constructions; and no tolls or charges of any kind shall be imposed or collected for the passage of any boat through the said lock or through any of the locks or canal of said corporation.

By that provision it is evidently intended that the National Government shall acquire some right to the use of this water, and acquire it without compensation, while the other consumers are compelled to pay for the power that they receive in that way and the added amount that the Government is imposing on the corporation.

Mr. BRANDEGEE. Mr. President—

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Connecticut?

Mr. WORKS. I yield.

Mr. BRANDEGEE. The provision the Senator has just read is embodied in every bill of this character. It is one of the conditions imposed by the general-dam act, subject to which all these bills are granted.

Mr. WORKS. That may be so, but it does not make it any better.

Mr. BRANDEGEE. Of course not.

Mr. WORKS. If we have been erring in that respect, it is about time that the policy of the Government should be changed.

Again, it is provided in section 4:

That compensation shall be made by the said Connecticut River Co. to all persons or corporations whose lands or other property may be taken, overflowed, or otherwise damaged by the construction, maintenance, and operation of the said dam, lock, and appurtenant and accessory works, in accordance with the laws of the State where such lands or other property may be situated; but the United States shall not be held to have incurred any liability for such damages by the passage of this act.

That provision of the bill is entirely unnecessary. There is no reason why the National Government should attempt to protect the interest of the land owners who are under the control of the laws of the State and should be protected by the State. In other words, the Government is attempting all along through the bill to infringe upon the laws and the rights not only of the States, but of individuals within the State.

Then, the bill provides in section 5:

That upon the termination for any cause whatever of the authority, rights, and privileges granted hereby, or any renewal thereof, the United States may renew the same or the grant may be made or transferred to other parties.

The Senator from New York [Mr. ROOR] has insisted that this does not constitute a grant, that it does not convey any right to anybody, that it is nothing more nor less than a simple permit given to this corporation to enter upon the stream as it asks to be allowed to do; but it is provided that not only the Government may regrant to somebody else, but it also provides that the Government itself may take over this property and use it, and itself become a public-utility corporation. It further provides that—

Unless the grant is renewed to the original grantee or its assigns, as herein provided, the United States shall pay or require its new grantee to pay to said original grantees or its assigns, as full compensation, the reasonable value of the improvements and appurtenant works constructed under the authority of this act and of the property belonging to said corporation necessary for the development hereby authorized, exclusive of the value of the authority hereby granted.

The Government proposes to purchase not only the structure that is placed in the stream, but it proposes to take over this whole system by which power is generated and transferred to



the consumers. By what right may the National Government under a grant or permit of this kind, whichever we may call it, provide that it shall become the purchaser of the entire system of this corporation to be used for the distribution of power?

Said improvements and appurtenant works and property shall include the lands and riparian rights acquired for the purposes of such development, the dam and other structures, and also the equipment useful and convenient for the generation of hydroelectric power or hydro-mechanical power, and the transmission system from generation plant to initial points of distribution, but shall not include any other property whatsoever.

The Government proposes under the bill to purchase not only the structure I have mentioned, but the riparian lands of the corporation and its entire system for the distribution of power.

Then the bill provides that—

The basis for determining the value shall be the cost of replacing the structures necessary for the development and transmission of hydroelectric power by other structures capable of developing and transmitting the same amount of marketable power with equal efficiency, allowance being made for deterioration, if any, of the existing structures in estimating such efficiency, together with the fair value of other properties herein defined, to which not more than 10 per cent may be added to compensate for the expenditure of initial cost and experimentation charges and other proper expenditures in the cost of the plant which may not be represented in the replacement valuation herein provided.

Mr. President, how can it be said under the various provisions of this bill that it is not a grant? If it is not a grant, what has the Government to buy of this corporation? What property interest is there as a result of the action taken by the National Government that could be bought by the Government itself?

These structures so placed in this stream are simply for the purpose of diverting and appropriating the water to beneficial uses. The question of the use of the waters of the stream is a matter with which, as I have said, the State alone may deal; the National Government has no power or control over it whatever—no right to legislate with respect to it; and certainly it has no right to impose a burden upon the corporation that must eventually be paid by the consumer, and thereby interfere directly with the use of the water by increasing the compensation necessary to be paid for it.

Let us consider just for a moment, Mr. President—for I am not going to take up much of the time of the Senate—the proposition submitted by the Senator from New York [Mr. Root], that the National Government has the right to promote navigation and to go to the extent of making a stream navigable that is not so already. If that be true, what becomes of the vested rights in the waters of the stream when the Government undertakes to pursue that course? Does the Senator from New York mean that the National Government may enter upon a stream of this kind, where all of the waters have been appropriated to a beneficial use, and destroy all of those rights and make it a navigable stream? Why, Mr. President, the right of one who has appropriated water from a stream and applied it to his land for the purpose of irrigation is a right that is just as sacred, just as tangible, as the ownership of his land.

Let us take a concrete case as illustrating what might be the effect of such an exercise of power. The Colorado River, that flows partly in this country and partly within the territory of the Mexican Government, is a navigable stream nominally; it has been recognized as such by treaties between the two nations. The waters of that stream have been appropriated under the laws of the State of California and applied to beneficial uses. There are hundreds of thousands of acres of land as fine and as fertile as can be found anywhere in the world that have been made so solely by the application of the waters of that stream to irrigation, thickly populated, and worth millions of dollars; yet, according to the doctrine of the Senator from New York, the National Government could enter upon the stream, so improve it as to make it actually navigable, and thereby destroy the rights of all of the people who are living upon those lands to-day. Do Senators believe that the National Government has any such right or power as that?

It may be, and for the purposes of this argument I am willing to concede it to be true, that the National Government would have the right to enter upon the stream and make it actually navigable; but when it does so it must make just compensation to every man who has acquired a water right in the stream. The National Government has no more right to interfere with the use of the waters of the stream than the State or its inhabitants have to interfere with the navigable quality of the stream. The two are absolutely separate and distinct; and the individuals in the State, or the State itself, notwithstanding the answer made by the Senator from New York, have a right to enter upon a navigable stream just as well as a nonnavigable stream and take out of it water for beneficial uses so long as the navigable quality of the stream is not interfered with. That

is being done all over the western part of the country. Of course, the Government has a perfect right to interfere with such diversion of the stream if it is apparent that it is interfering with navigation, but its right goes no further than that. If we keep these two rights of the National Government and of the States and their inhabitants separate and distinct, there is no reason why we should make any mistake with respect to this matter.

I have not the slightest objection to the provisions of this bill for the erection of a dam. If the Government wants it and the corporation wants it and the people of Connecticut are satisfied, it does not make any difference to me; but whenever the National Government adopts the policy of imposing a fixed charge upon a corporation for such use of a stream, then I protest because of the consequences that will follow from such action, as I have already pointed out.

Mr. President, I have had no intention of discussing the legal questions involved here, because they have been thoroughly and most exhaustively discussed by Senators who have preceded me. I only desired to point out, in a very brief way, the effects that it seems to me would follow from the provisions of this bill, and to give my reasons in a brief way for objecting to its passage. I know it is said that the people who are contending against this sort of thing are contending against the conservation of our natural resources. Well, I am not afraid of any criticism that may be passed upon me for trying to protect the people of my State from being deprived of the use of water, every drop of which, at least in the southern part of the State, is necessary for actual use in the development of that portion of the State which in part I represent in this body.

It is for these reasons, Mr. President, and for these alone, that I am objecting to the passage of the pending bill.

Mr. BORAH. Mr. President, I regard this bill as opening up in a very broad and general way not only the subjects which may be properly associated with the bill, but the general subject of the proper treatment of the natural resources of the country. There was published yesterday in the *CONGRESSIONAL RECORD* a statement from which I desire to take a single sentence:

Water power belongs to the people. The sites where it is produced should never be permitted to pass out of their hands, for only in this way can effective control be secured.

I agree with the statement that water power, in the proper sense, belongs to the people. I desire to discuss this matter in the light of that general proposition. Not only does the water-power question but the conservation question generally involve the proposition that our natural resources undeveloped in the proper sense belong to the people of this country. It is for the very reason that it seems to me the people's property is not being properly protected and their interest in it properly shielded that I desire to offer some criticisms of this bill.

Before taking up the bill proper, I am going to call attention, in a general way, but briefly, to the subject of conservation and to the proposition that we are wandering away from the rule that the resources belong to the people, and that we have reduced the conservation movement almost entirely to a revenue proposition. We are tending more and more to get all out of our resources possible in the way of revenue and less and less toward making these resources available to those of limited means.

As the conservation movement was inaugurated in the first instance very few people could find fault, and very few people did find fault, with the theory or the principles upon which it was organized. The original purpose of the movement was to protect our natural resources from waste and from monopoly, and certainly to that extent no right-thinking person could object to the policy or purpose of the movement. But in the practical application of those principles the people have either been lost sight of or by reason of the difficulty of applying the principles they have been ignored to such an extent that they are not getting the benefit of this conservation movement. Those who desire to see the natural resources of the country protected from the old system which at one time prevailed must necessarily find some practical means to apply these principles, or the conservation policy will break down of its own weight. Unless these natural resources can be made beneficial to the people generally, unless they are going to receive some benefit which is substantial in its import, a policy which is bound to be expensive will in the end fail of its own weight.

I see no reason why conservation should not work to the benefit of the people. In saying this I do not wish to be misunderstood. I do not desire to leave the inference that those responsible for the administration of our policy are knowingly or corruptly favoring a few to the injury of the many. I assert, however, that that is the effect in many instances of the



present policy. I do not believe that any considerable portion of the people of the West are opposed to the theory of conservation, and they are not opposed to an intelligent, practical application of the theory of conservation. The great majority of these people have a well-settled and most earnest desire to see the great natural resources of our country conserved—protected from waste and monopoly. But they believe that it is practicable and also indispensable to a permanent and successful policy of conservation that we not only withhold these resources from waste and monopoly, but that they should be utilized and dedicated to the benefit of the people.

The most important thing which we have to consider in regard to this matter is, first, whether or not the policy is being administered in such a way as to aid the people generally or to give them any benefit, and, second, if not, what changes should be made in order that they may have the benefit of these natural resources?

It will be said, I presume, that I am wandering far afield, for the reason that this bill in large measure relates to a local situation; but it is now pretty generally understood that it is the initiation of a policy with reference to these matters, and if I view this bill and the proposed contract under it correctly and have a proper conception of them, they are going to lead to a condition of affairs where the people generally, to whom it is said this property belongs, will have absolutely no protection whatever.

I do not for a moment question the good faith of those who advocate this measure with its peculiar addenda; but if we can demonstrate that they are putting a load upon the people's property which the people can not bear, in order to enjoy the property, we will certainly demonstrate that, even though it does belong to the people, we are not properly administering it; and if I, as I say, read this contract correctly or the bill and contract which has been made under it, so far as those to whom it is said the property belongs are concerned, they have no protection from what might prove so burdensome as to make the "people's property" worthless.

But before going into that, I am going to go a little further upon the general proposition of the conservation movement. I read from a speech delivered by President elect Wilson at Chicago a few days ago. It will not be charged that the President elect is embarrassed by the prejudices or the preconceived opinions which, it is stated, attach to people who come from the West and have come in contact with the conservation movement. It will not be said, either, that he is opposed to the conservation policy; and yet he has stated with searching accuracy the defect of the present conservation policy and has suggested the very thing for which we for a good while have been contending in vain. He says:

In the first place, we have to husband and administer the common resources of this country for the common benefit.

Now, not all business men in this country have devoted their thought to that object. They have devoted their thought very successfully to exploiting the resources of America, but very few business men have devoted their thought to husbanding the resources of America; and very few, indeed, have the attitude of those who administer a great trust in administering those natural resources. Until the business men of America make up their minds, both to husband and to administer as if for others, as well as for their own profit, the natural resources of this country some of the questions ahead of us will be immensely difficult of solution. It has come to be believed, and I repeat what is generally believed to be true is true, that the raw materials—the resources of the country as yet undeveloped—are not as available to the poor man who needs them most as to the rich man whose need is for raw material to exploit to his further gain.

Mr. President, in my judgment, that states the indictment accurately against the present trend of the conservation policy. It is removing farther and farther from the poor man or the man who needs them most these resources, or making it more difficult for him to receive any benefit whatever from them. The expense, the red tape, the procrastination, and the expenditures, not only upon the part of the man who desires to enjoy the resources, but upon the part of the Government, have raised such a barrier that a man of limited means can not now approach the natural resources of this country. Our forests, our timber, our coal, our power sites, and the other great natural resources of the country are being removed from all those who have not a vast amount of means to acquire them. Our agricultural lands and those things which have heretofore been supposed to be within the reach, or designed to be within the reach, of the man of most limited means have been placed practically beyond his reach. The great desire to secure revenue has overridden and come in contact with the desire to reach the man of limited means, and the former theory is prevailing.

These things are wrong. We must not try to say how justice must be meted out or how resources may be available, but we must see that they are equally available.

Some of our difficulties have arisen from the fact that we did not start with the correct premise. We must remember, and you must not cause people to believe otherwise, that reservation is not conservation.

Reservation is not conservation, where a national life grows as rapidly and as surely as American life grows, for mere reservation—which is a synonym for delay—and preservation, which is old-fashioned-ism, in the future are not true conservation.

It is said that the West, Mr. President, is opposed to conservation. I do not believe that 3 per cent of the people of the West are opposed to conservation; but we are opposed to reservation. Reservation withdraws and locks up. Conservation, when rightly understood, conserves those resources for the use and benefit of the people generally. Reservation must necessarily, I presume, to some extent precede conservation and to that extent is not to be opposed. But the fact is we have never gotten beyond the point of reservation. The proposition of making these resources available and useful and beneficial to all the people is true conservation, and that stage in the work we seem not yet to have reached. Our coal lands, our power sites, our agricultural lands to the extent of vast areas, our mineral lands, are all withdrawn, locked up, sealed, and delivered over to eternal night. How we shall unlock them without permitting them to be wasted and monopolized has not yet been determined. It is easy to withdraw these resources from use. It is far more difficult to provide the means by which to give the people the benefit of them after they are withdrawn. But we must determine how this shall be done or our whole plan will come to naught. Those who are opposed to any policy of conservation at all, who would go back to the old system, could have no better advocate of their cause than the incomplete, impracticable, theoretical, red tape, stifling, harassing system with which we are now burdened. I do not myself want to see the old system return. But I know that must be the result unless we insure the people some of the benefits which the people were promised in the beginning.

Now, as was said by the Senator from New York, and justly said, a great deal of credit is due to those who inaugurated this movement. It was necessary, in a certain way, to tie up the natural resources in order that they might be protected from the monopolists or those who were grabbing them upon a large scale; but now the time has come, and has been here for some time, when we must either find a policy of conservation which means practical application of its principles, or else, as I have said, this policy is going to break down of its own weight. I am going, briefly, to illustrate what I mean by beginning with our Forestry Service. Before I do so, however, I want to read another sentence from the President elect's address, because it states the other proposition with which we have to contend:

We must devise some process of general use; and why have we not done so? Why, if I am not very much mistaken, because the Government at Washington was tremendously suspicious of everybody who approached it for rights in the water powers and forest reserves and mineral reserves of the great western country which the Federal Government still controls.

Mr. President, the President elect there has stated three propositions which most succinctly state the objections which the western people have to the present method of administering our natural resources. First, that they are being removed from the man of limited means; secondly, that they are being administered upon the policy of reservation, a locking up; and thirdly, that the administration has been unduly controlled by a prejudice against those people who have approached the natural resources with a desire in good faith to utilize them. There was some justification for this suspicion, because there can be no question that before the conservation policy was inaugurated there was a grabbing of the natural resources. A great many things had been done which ought not to have been done; but it does seem to me that it is possible to secure an administration of this policy which will discriminate between the man who is doing wrong and the man who is doing right.

The difficulty at the present time is that the impediments, the embarrassments, and the difficulties are just as great and just as strong against the bona fide dealer as against the man who is charged with fraud. Take, for instance, our agricultural interests and our homesteaders—and I confess that they are much nearer to my heart in this matter than any other part of the people who are seeking to use these resources, because they are building up our country—the policy of the Government's agents is to go to the land office and throw a blanket contest over every proof that is offered by a homesteader. They either do not provide means or else they do not know of any means by which to give the man who is there in good faith and with limited means the benefit of his good faith and to impede the man who is there in bad faith; they do not have any rules and regulations which discriminate between the two. They simply offer a blanket protest, and the man of limited means, who is there in good faith, must go to the same expense,



suffer the same delay, endure the same hardships and the same adversity as the man who is a criminal and who is there for the purpose of stealing.

I am not mistaken as to the situation. Neither do I exaggerate it. I have the good fortune to live in that country. But that alone is not sufficient to give one accurate knowledge of the true situation. You must go out and see for yourself—you must visit the settlers and see their surroundings and the adverse conditions with which they contend. That for the last five years annually I have done. You must inquire for yourself as to the business interests which are seeking, many in good faith and some in bad faith, to develop these resources. You must look upon these rangelands for yourself and see how they are located. You must see these things in order to realize that this conservation policy has been wrenched wholly from its original purpose. I repeat, Mr. President, that in saying this I do not charge corrupt wrongdoing. But I do charge that suspicion, and prejudice, and procrastination, and red tape, and an utter lack of information gained at first hand have led to precisely the same result.

Mr. SMITH of Arizona. They make it as hard for one to get it as the other.

Mr. BORAH. Yes. Mr. President, we have an immense forest reserve in this country. When you come to measure it by the size of the old countries, it seems tremendous indeed. According to the report of the Forestry Bureau, filed this year, we have about 190,000,000 acres of forest reserves; that is, land which is in the forest reserves. The larger portion of this land has timber upon it. On page 33 of this report, the Forester says:

The national forests contain nearly 600,000,000,000 feet of merchantable timber. Nearly 350,000,000,000 feet are ripe for the ax and deteriorating in value, rapidly on areas swept by fire, gradually on areas where the forest is mature and the trees are slowly yielding to decay.

Nearly 350,000,000,000 feet of lumber, ripe and ready for the ax, ripe; and yet, under our present system, you can not purchase that ripe, ready to fall, and rotting timber any cheaper of the Government of the United States by reason of the fact that it is in a reserve than if it were owned and controlled by private companies, of whose prices the Government is complaining. The man of limited means or the man who desires to build a home can receive no possible benefit from the fact that the forest reserves have 350,000,000,000 feet of lumber that ought to be out of them, and which it would be greatly to the advantage of the forest reserves if it were out of them. In this connection I call attention to an editorial in the Saturday Evening Post, a paper which has been a supporter of conservation:

PHILADELPHIA, January 25, 1913.

#### SELLING GOVERNMENT TIMBER.

The Government's windmill battle against monopoly is admirably illustrated by its timber policy. Its own reports show a monopolistic situation with regard to standing timber.

An important part of the total supply, aside from that owned by the Government, is in few hands. A rise of more than 60 per cent in the price of lumber since 1897 indicates that owners of the commodity have had a leverage on the market.

Now, the Government itself owns one-fifth of all the standing timber in the country, many billion feet of which are ripe for the ax and even deteriorating from overripeness. In offering this ripe timber for sale the Government "makes a close estimate of the cost of manufacturing it into boards and of the market price of the product." It then fixes a minimum selling price, based on the two foregoing factors, which will "give a fair operating profit to the purchaser on his investment, but no more."

The words quoted are from the report of the Secretary of Agriculture. Obviously under this policy the Government's timber can never be sold on the market any cheaper than the monopolized timber in private hands is sold, because the Government's price is based on the market price; and the market price, of course, is fixed—or largely controlled—by private owners of timber.

If private owners boosted prices 50 per cent, the price of Government timber would automatically advance 50 per cent; and, though the public owns one-fifth of all the standing timber of the country, it can not get lumber any cheaper than private owners offer it.

Another effect of this policy is that the Government's ripe timber is not cut, but stands and decays. The "fair profit on his investment, but no more," which the Government offers to the timber operator, does not attract him, as is shown by the fact that it is selling only one-tenth of the timber it should sell to keep the forests in a healthy condition.

Having adopted a policy that in fact amply protects monopoly at every point, the Government then goes through a great rigmarole of restrictions and conditions designed to prevent its timber from falling into the hands of monopolists.

The whole thing beautifully illustrates our antimonopoly policy, which consists in putting a lot of words on paper and ignoring essential facts.

Why, Mr. President, it would be far better for the reserve if private individuals were invited to go in there and take out the ripe timber free of charge than to leave it there in its present condition.

I want to say, in passing, that I do not think the Chief Forester should bear the entire brunt of this situation. I realize the fact that in all probability, under the present laws and the present conditions, it would be very difficult for him to admin-

ister the law in a different way. But here are the facts stated by the Chief Forester; and they present to the Congress a condition with which the Congress must deal, or else, as I say, this forest-reserve policy will break down of its own weight, because it is benefiting no one. In addition to that, it is very expensive, costing the Government from five to five and one-half million dollars per annum.

A few days ago, while I was traveling upon a train from the West, a gentleman who is largely interested in timber in the West told me he trusted the forestry policy of the Government would not be changed. I asked why he thought there ought not to be any change. He told me that he had just purchased a sufficient amount of timber to run his sawmills for three years. He had been relieved of insurance, of buying the timber, and taking the chances of fire; the Government had kept it intact, had relieved him of insurance, and had sold it to him. I asked him if, by reason of that fact, he would be able to undersell his competitors in the market and the people would get the benefit of it. "Oh, no," he said; "certainly not. We fix the price before it reaches the retail dealer or the consumer."

Practically every foot of this timber, when it passes out in such an amount as in any way to affect the market, must pass through the hands of the people who are now in control of the market and fixing the price of lumber before it reaches the ultimate consumer. What are we going to do? Are we going to continue to hold these lands in reserve and pay out five and a half million dollars a year for administering the reserve, and still deprive the people of any possible benefit, putting them in the same relation to the timber organizations of the country as they have been before? If so, as I say, undoubtedly in time the people will get tired of that policy.

We do not desire to throw these timber lands out of the reserves. So far as the West is concerned, there is no considerable sentiment in favor of that course. Neither is there any considerable sentiment, so far as I know, at the present time and under present conditions, in favor of turning these timber lands over to the State. But one of those two things will in the end happen if the National Government can not get that 350,000,000,000 feet of ripe timber into the hands of the consumers of this country. We may have approached the proposition in such a way that nothing less than the Government operating its own sawmills and selling the lumber will do that, but it will have to be done in some way. If the department feels it can not work out a plan as the law is at present, then upon a report to that effect Congress must work out a plan which will permit the people to have this timber, which is now ripe for the ax and will soon fall and rot.

Taking up now this particular bill, I want to refer to the provision of the bill which first attracts my attention. It is found upon page 2:

And provided further, That the Secretary of War, as a part of the conditions and stipulations referred to in said act, may, in his discretion, impose a reasonable annual charge or return, to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the development of navigation on the Connecticut River and the waters connected therewith. In fixing such charge, if any, the Secretary of War shall take into consideration the existing rights and property of said corporation and the amounts spent and required to be spent by it in improving the navigation of said river, and no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return on the fair value of such dam and appurtenant works and property, allowing for the cost of construction, maintenance and renewal, and for depreciation charges.

Taking for the basis of our argument the premise that the hydroelectric power created at these power sites either belongs to the people or should be administered so that they may have the benefit of it, let us analyze this bill so far as the people's interests are concerned. Where is there any power or tribunal here created or erected to be interposed between this corporation and any charge it sees fit to put upon the consumers of power?

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from California?

Mr. BORAH. I do.

Mr. WORKS. Does the Senator from Idaho believe that the Government could provide any body or commission that could do that thing?

Mr. BORAH. If I understand correctly, this power is transmitted across State lines.

Mr. WORKS. It could do it, then, only because it is interstate?

Mr. BORAH. I understand that this power is transmitted through two or three States. If that is so, I have no doubt but that when it comes to transmit hydroelectric power, the corporation doing so would be subject to the regulation, for instance, of the Interstate Commerce Commission, if we should see fit to place it under the jurisdiction of that body. But I agree



with what I think is in the mind of the Senator—that if it is intrastate development and use, the National Government would not have anything to do with it.

Mr. WORKS. That was exactly my view of the matter. I had overlooked the fact that the power could be transmitted into another State.

Mr. BORAH. Upon that somewhat inoffensive and modest-appearing provision of the bill, Mr. President, there is already being built up what one would naturally anticipate would come, but not quite so quickly. Here is the contract which has been formulated in contemplation of Congress passing this bill; and keep in mind that this is the people's property.

Mr. THOMAS. Does the Senator say that this contract has already been entered into?

Mr. BORAH. I understand so.

Mr. CLARK of Wyoming. Well, no; this is an agreement already entered into between the company and the Secretary of War setting forth what will be the contract if this bill passes.

Mr. BORAH. Yes; technically, that is true. I read from the agreement the following:

From the gross receipts of the company for the water power produced by it there shall be deducted as operating expenses the following costs:

(a) The amount of all regular or annual taxation paid to any Federal, State, or local authority.

(b) An amount not to exceed \$48,000 per year, which is to be fixed by agreement between the Chief of Engineers and the company as a reasonable rate for depreciation on its plant and machinery.

You will notice as I proceed what a tender and sensitive regard they have, all the way through, expressed for the people. How the consumer is conspicuous by his absence:

(c) The actual and bona fide cost of all labor, material, supplies, and other expenses of maintenance and operation, excluding depreciation. Such cost of operation shall be taken to the initial points of distribution, to be fixed subject to the approval of the Chief of Engineers.

Of the net profits of the company as thus ascertained the company shall be entitled to all of the said profits up to an amount equivalent to 8 per cent of the actual amount of capital invested as provided in section 1 of this memorandum.

The company is taken care of upon all its investment to the extent of 8 per cent—a pretty fair percentage:

The said net profits beyond 8 per cent and not exceeding 9 per cent shall be divided between the United States and the company equally. The net profits beyond 9 per cent shall be divided between the company and the United States at ratios and in manner to be provided in the above-mentioned permit and agreement, but in no event is the share of the United States to be less than 50 per cent of such excess profits.

The United States enters into a copartnership with this corporation, by which the United States and the corporation divide the profits. The United States and the corporation are both desirous of taking out of it all the possible profit that it will produce. The charge is fixed indirectly by a tribunal, which is interested in raising the rate as high as it can—that is, interested in seeing the profits increase.

It is a pure business proposition, between the National Government and the corporation, of fixing the freight, and "Jones pays the freight." What means of subsistence or of profit has this corporation other than that which it gets from the people who use the power created? What profits are going to flow into its exchequer except the profits which are derived from the masses of the people who surround or live in that community? Whose profits are they dividing here?

You would understand from the argument which has been made here that there is somebody here to be taxed, aside from the people themselves, and that it is a righteous thing to proceed to tax the institution to its full limit. But, as said by the Senator from California [Mr. WORKS], the great weight of this must inevitably be paid by those who use the power. Does the Senator from Connecticut know of any means or resource by which to increase the profits of this company other than that which will come from the use of the power which it will generate?

I read further from this agreement:

These terms are imposed, in view of all the conditions and circumstances on the Connecticut River affecting this particular project, as being fair and just to both parties.

Both parties! That is, the corporation and the United States.

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from California?

Mr. BORAH. I do.

Mr. WORKS. This bill provides that the money realized by the Government shall be applied to the improvement of navigation upon this stream. The effect of that is that the consumers of power furnished by this corporation alone contribute the money to improve the navigation of the stream.

Mr. BORAH. Yes; that part of it which ever gets to the stream.

Mr. BRANDEGEE. Where does the money come from that is taken out of the Treasury now and spent in improving the navigability of navigable streams?

Mr. BORAH. It comes from all the people of the United States. Raised by general taxation. I conceive that there is a vast difference between imposing a special tax upon a part of the people for dredging a stream for everybody's use and in raising money by general taxation for dredging a stream which all may use.

In one breath we are told that these resources belong to the people and are the people's property. In the next we are presented with a plan which taxes them and burdens them in every conceivable way. We must be taxing the people's property and the people will have to pay the taxes. In the matter of public utilities, if we are seeking to serve the people, we should make the cost and expenditures in the matter of development as small as possible, and then fix the rate to be charged the people upon the basis of the cost and expenditure. The higher the cost, the higher the expenditure, the higher will be the toll, necessarily. If you sell these natural resources at exorbitant prices and fix the tolls upon that theory, as you will have to, then the toll in the end simply pays the price originally charged. If we burden these resources with tolls to dredge the streams of the country it is certain that it means an extra burden to the ultimate consumer. These general expenses, such as the improvement of navigable streams, should be borne by general taxation while the special taxes should be made as light as possible in order to give the people at large as cheap a service as possible.

Mr. BRANDEGEE. Why, of course; and this money that is going to be spent on the Connecticut River will come from the people of Connecticut.

Mr. BORAH. That is, it would come from the people who use the power from this particular plant.

Mr. BRANDEGEE. Precisely.

Mr. BORAH. The other people would not bear any portion of the tax.

Mr. BRANDEGEE. Just as the money spent on the general improvement of navigation comes from those who pay the taxes on the things they consume.

Mr. BORAH. Mr. President, if the Senator from Connecticut wants the consumers of power in the State of Connecticut to dredge his rivers, of course I am not going to quarrel with him about that. But when I look at the history of the rivers and harbors bills for the last few years in the United States Congress, and particularly when I read the article by the Senator from Ohio [Mr. BURTON] in the last number of *The World's Work* upon the extravagance and the waste which is connected with the dredging of these rivers, I do not want the people in my part of the country to have to pay it by means of a special tax. It is bad enough when they pay it as a general tax.

I was saying that this is the people's property. So says this article. What are we doing with reference to the management of the people's property?

In the first place, we are putting it just as far away from the people as it is possible to get it under our form of government. We put it under the control and regulation of an officer whom the people do not elect, whom they can not discharge, from whose judgment there is no appeal, and in whose presence the people are very seldom permitted to stand.

Let us take a case a little nearer home. Suppose the Government should build a dam across what is known as the Snake River, in Idaho. Some time I expect to see every farmer in the Snake River Valley lighting and heating his home by means of electricity. I expect to see it take the place of coal and fuel and to supply those things which are conceded to be growing scarcer and dearer every year. We will assume that the Government has built a dam and made a contract such as this, and that the Secretary of War is about to fix a charge upon the corporation which ultimately will have to be paid by these people. What opportunity is there for them to be heard? What chance have they to submit any showing so that they may be indirectly protected, if not directly?

I do not understand why it is necessary to remove that matter from the tribunals which we have created for the purpose of fixing rates, where the people can be heard, where their rights can be determined according in some measure to judicial rules and regulations, and place it in the hands of an executive officer from whose judgment or decision there is no appeal and with whose original action the people have absolutely nothing to do.

I think those who say the bill ought to pass with this provision in it, and who still say that this is the people's property, have lost sight of the fact that there is no provision whatever in the bill to protect the people to whom the property belongs.

I noticed this morning in a newspaper published somewhere in the State of Massachusetts the statement that "Senator



BORAH was not progressive on the subject of power sites," and that he was "a reactionary upon that question." There is some consolation in the fact that this measure, which is characterized as a progressive measure, has been the means of bringing together again the Republican Party, because I find the leading progressive from New York [Mr. Root], and the leading progressive from Connecticut [Mr. Brandegee], and the President of the United States, and Mr. Pinchot, and Mr. Garfield, and Mr. William Draper Lewis all combined in supporting this progressive measure. While I should dislike very much to see the bill become a law, if it carries with it the possibility of bringing together all these pronounced progressives it will have some benefit to distribute to the people of the country even if they do not get any cheaper light. But in view of this combination I am led to examine it for myself, and I conclude that it is not progressive to levy all extra taxes possible upon the "people's property" and to place it under the control of an officer whom the people do not elect.

Mr. President, I have offered here an amendment which provides that all corporations engaged in transmitting hydroelectric power and electricity from one State to another, or from a Territory to a State, or from the District of Columbia to a State, or to a foreign country shall be subject to the provisions of the interstate-commerce act. I offer that amendment for the reason that I do not myself desire that these power sites shall pass beyond public regulation and control. I do not desire to place them beyond the reach of the public in the matter of fixing charges and rates. I do not see why it would not be a perfectly feasible proposition to place them under the control of the rate-fixing body which has been created by the Government. If that should be done, Mr. President, at least this would be accomplished—we would have a tribunal whose sole object would be to fix a reasonable rate, taking into consideration the corporation and the public, and not a tribunal whose sole interest would be to secure profits and revenue. In addition to that, we would have an opportunity to submit evidence and to have a hearing, the same as we do with reference to the fixing of rates upon other commodities that are transmitted from one State to another.

I have offered a second amendment, Mr. President, which I want to discuss for a few moments, although I think perhaps I shall have some difficulty in satisfying some Members of the Senate that it is germane to this proposition. It is germane only in the sense that, as I said a while ago, this is the beginning of a policy with reference to these matters.

Under the reclamation law a number of dams have been built throughout the western country with the object of diverting water for the purpose of reclaiming the arid lands of the West. Those dams have been constructed by the Government, and they are charged up, as it were, to the settlers upon the land. When the settlers come to pay for the expense of putting the water upon the land they not only pay for the canals and the ditches, but they pay for these dams, and also for the reservoir expenses.

In the reclamation law we find this provision:

The said charges shall be determined with a view of returning to the reclamation fund the estimated cost of construction of the project, and shall be apportioned equitably.

Under that provision the expenses of these dams are charged up to the settler. The act further says:

*Provided*, That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress.

It will be seen, therefore, that while these construction works are charged up in the price which the settler pays, the title to them remains in the Government. The Government in some instances is now creating hydro-electric power, electricity, and selling it back to the same people who have paid for the construction of the dam.

I maintain, Mr. President, that if we are going to adopt the policy of putting these power sites and the proceeds from them under the control of the Government and giving over to the Government the benefit of them, it is but fair that the settlers should be relieved of the cost of building these dams. In time the settlers would repay for them in the power charges they would pay to the Government. I have, therefore, introduced an amendment providing that the charge for the construction of these dams shall be eliminated from the charges made to the settlers upon these lands.

One of two things ought to be true: Either the title to these dams should pass over to the settlers who have paid for them, and they should have the benefit of any proceeds arising from the use of the power; or else, if the proceeds from the use of power are to pass to another person, they ought to be relieved from the payment for these dams.

As I say, I know it will be said that it is far-fetched to attach this amendment to a bill providing for the construction of a dam in Connecticut. But, as I say, in view of the policy which is being created, and in view of the fact that we are building up this policy, not by a general bill, not by a bill which takes in the entire country, but step by step, by means of bills relating to a locality, it is necessary, if we are to work out a general policy and a general system which will pertain to the entire country, to insert these different amendments in bills which are ostensibly local in their character.

I had intended to discuss the legal phase of this controversy, but since listening to the Senator from Colorado [Mr. Thomas] upon that subject, I feel that I should be wholly trespassing upon the time of the Senate if I should undertake to do inadequately what he has done so well. I shall not therefore enter upon that phase of the discussion.

Mr. TOWNSEND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Michigan?

Mr. BORAH. I do.

Mr. TOWNSEND. I have listened a great many times to the suggestions of the Senator from Idaho in reference to the control and management of our national resources, especially those relating to forest reservations. I should like to ask, for information, whether the Senator from Idaho has ever prepared and presented to the Senate any bill embodying his ideas of how our water powers and our forest reservations should be administered?

Mr. BORAH. Yes; I have prepared some bills, and have been fortunate enough to get some of them through—the three-year homestead bill and others. So far as the Forestry Service is concerned, I will say to the Senator from Michigan that, while we have formulated no general bill, at the last session of Congress, I believe, a bill passed Congress providing for the sale of the timber upon all of these lands which had been burned over, and providing for the sale upon the part of the homesteader himself of the timber upon the land upon which he had filed.

Mr. TOWNSEND. I remember that bill.

Mr. BORAH. While it was not a general bill, it was in the direction of appropriating a part of this timber, which is confessedly going to waste, to the immediate benefit of the settlers, and if it had been sold in pursuance of the bill it would have been to the immediate benefit of a great many people, because they would have purchased the timber under the bill undoubtedly to their advantage.

That is one of the things of which we complain. That bill passed Congress and it was vetoed, as the President said, upon the recommendation of the Secretary of the Interior. And why? It was vetoed because it was feared that the homesteader would get pay for his timber and might not thereafter acquire title to his land. With 350,000,000 feet of timber ripe and ready to be harvested the bill was vetoed for the reason that some man might get \$100 worth of timber and thereafter abandon his land.

The discouragement in the small effort to relieve the situation has been sufficient to deter me in undertaking anything greater.

Since the Senator has referred to what the Senator from Idaho has attempted to do, I had the honor to join in the preparation and the urging here upon the floor of the Senate of an amendment which would take out of these various reserves the agricultural lands and permit settlers to enter and use the agricultural lands. That was defeated for the reason they said that it had a tendency to break the integrity and destroy the wholeness of the forest reserves, and was, they undertook to satisfy the public, a raid upon the whole conservation policy.

Mr. President, I do not suppose that within my lifetime or yours the West will ever be able to convince the good people of the East that we do not desire to have the forests of this country turned over to the grafter. The West has never asked, and does not now ask, that the old system of grabbing and waste be restored. And the West pays its tribute of respect to those who initiated the movement which prevented that. But it does hope that in time it will come to be understood that there must be a different policy and a different spirit of administration.

For the last few years every time a man would raise his voice against the effects of this manner of administration, against the impractical and shortsighted policy of driving out settlers and retarding legitimate growth, he has been assailed as an opponent of conservation. This cry will be raised again. Any effort to do justice to the settlers, to give them an intelligent, discriminating administration of the public-land laws, any effort to introduce a practical application of the real principles of conservation or to give the West an opportunity to develop along legitimate lines—any effort to give these natural

resources to the people, relieved of heavy taxes, tolls, and bureau red tape, will be characterized by some as enmity to conservation.

When we come here with the most modest appeal and the most modest proposition to relieve the situation the press of the country is immediately saturated with the idea that there is a powerful conspiracy to break down the forestry policy. I do not know of a single instance in which the West has ever asked for anything which could in good faith be interpreted as an attack upon the forestry policy—that is, in its general conception and purpose. We want, if we can, as the President elect said, to remove, if possible, all suspicion which rests upon us every time we approach it.

I said upon the floor of the Senate, and I repeat, that the vetoing of that burnt-timber bill was an indication that there was no possible relief to be granted.

So far as the power-site proposition is concerned, I say to the Senator that I have not prepared any bill upon the subject; but I have indicated by amendments to this bill, with reference to the proposition of transmitting power across State lines, how in my judgment it should be regulated and controlled. I have no pride of opinion and no pride of authorship over that proposition. I am perfectly willing to accept any man's theory or any man's policy which will give a system of regulation and control which will take into consideration the interests and the welfare of the people for whom we are fixing these rates. I am utterly opposed—and I do not propose to consent to it under any circumstances, if I can help it—to a system which will fasten upon this property the great burden of dredging the rivers and put the control of the compensation up to a tribunal whose prime object is to secure as much money as possible.

I believe that answers the Senator from Michigan.

Mr. GALLINGER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New Hampshire?

Mr. BORAH. I do.

Mr. GALLINGER. I notice the Senator suggested that he was not quite sure that one of his proposed amendments would be germane to this bill. The Senator need not trouble himself about that, because we have no rule in the matter of amendments being germane, except one relating to appropriation bills. In this body, under our liberal rules, I think almost anything is germane to any bill that may be under consideration.

But I rose to ask the Senator this question: Some of us gave our very warm support to the irrigation legislation because of the fact that we were assured that the Government would have returned to us every dollar which was expended in that great project. I will ask the Senator if the dams that he says now ought to be passed over to the settlers instead of being in the hands of the Government are not a necessary and an inevitable part of the money that the Government expends to carry on this work? I do not see how the Senator differentiates between that expenditure and the digging of ditches or anything else connected with this great project.

So far as the Government selling the power is concerned, I am not very clear about that, because I have not examined it, but, after all, it seems to me that if the Government has fulfilled its contract with the settlers and has expended the money and they are to pay back every dollar, as the Senator from Idaho assured us they would and as I understand they are doing, I do not see why we should take out a portion of the expenditure that the Government has been to and differentiate that from the other expenditures which have been made.

Mr. BORAH. Mr. President, I am obliged to the Senator from New Hampshire for his suggestion about the amendment being germane. Of course, I understood that parliamentarily it was not necessary to be germane, but I was arguing from a logical view as to whether the Senate would be willing to take up such a subject in connection with this bill from the broad standpoint that it is fairly relative to the subject.

Mr. GALLINGER. The Senator from Idaho is perhaps aware of the fact that Congress once attached a land bill of very considerable proportions to a private pension bill, and it so appears on the statute books to-day. In this body I think the question as to whether an amendment is germane or not relates only to appropriation bills. I think the Senator will find that to be the case.

Mr. BORAH. That is unquestionably true.

Mr. BRANDEGEE. The Senate placed a meat-inspection bill on an agricultural appropriation bill.

Mr. BORAH. I know. I am aware the Senate will do all these things when it gets ready.

As to the other proposition which is suggested by the Senator from New Hampshire, of course I was not here when the reclamation act was passed. I understand that there were some

assurances upon the part of western Senators that the settlers should pay back all the expenditures. I am not going to enter into a discussion as to whether there is any moral obligation upon succeeding legislators to regard a mere oral statement in debate or not. I will assume for the sake of the argument that we ought to regard it at present. But, Mr. President, these dams, and so forth, are not turned over to the settlers. The title is retained in the Government, and the Government in time will have a property of great value from which it will be again collecting revenue from the same settlers who paid for its construction.

Mr. GALLINGER. But, Mr. President, if the Senator will permit me, I will ask him if, when the Government supplied the water to irrigate the land of the settlers, did not the Government fulfill absolutely all that it had promised to do in the legislation?

Mr. BORAH. You mean in the law itself?

Mr. GALLINGER. In the law itself.

Mr. BORAH. The Government undoubtedly fulfilled the law, but it has retained, as I said, the title to these dams. The settlers did not contract with the Government that it should create power and sell that power back to the settlers. That is a thing aside. It is not covered by any debate which took place here. It is not covered by any provision of the law. It is not covered by any contract.

If the Government sees fit to retain this title and to put the property to such use as that an extra burden is thereby imposed upon the settler, it seems to me that one of two things must be true. Either the settler is entitled to the proceeds, to apply it upon the land, because he has built the dam, or else, if the Government is going to retain it, it ought to take the responsibility of the cost of construction.

The power developed in these dams will in time pay for the dams and in time pay for them again. Yet the community will be paying each time, as it consumes the power for the construction of the dams. I would just as soon have the Government turn over the dams to the settlers, transfer them absolutely, and let them run them, and if there is any power to be manufactured let them have the benefit of it. But the Government does not propose to do that. It has discovered the necessity of holding them in order that this property which is created by the construction of the dam may be used to the advantage of the Government.

Mr. CLARK of Wyoming. Will the Senator right on that point permit an interruption?

Mr. BORAH. Certainly.

Mr. CLARK of Wyoming. Is it not a fact that corporations engage, under another general irrigation law passed by the Congress of the United States, in the construction of great works, and after they have been repaid for that construction, when the land under the construction has been developed, does not the corporation then go out of business and turn over the works to the settlers for their operation? I refer to the operations under the Carey Act.

Mr. BORAH. Yes; I think that is true; but that is not under the reclamation law.

Mr. CLARK of Wyoming. It is not under the reclamation act, but under an act of Congress.

Mr. BORAH. I want here to call the attention of the Senator from Michigan to a letter which I intended to refer to in my original remarks. I read it in answer to the inquiry which he made. This is a letter written to me from Sumpter, Oreg., only a few days ago. The writer says:

In the forest reserve along the rivers and creeks of eastern Oregon there are thousands of acres of flat bottom and bench land of the very best soil and where water can be gotten on every foot of it for irrigation.

This land can not be taken up by the many who would like to settle on it for homes, because there are a few trees on it.

All open spaces along the creeks which could be taken up by the settlers are reserved as ranger stations to keep out the settlers. In Baker and Grant Counties there are 83 of these stations, embracing over 10,000 acres.

I suggest to the Senator from Michigan, what possible use could the Government have for 83 ranger stations in two counties? What possible advantage can the Government gain by it, so far as properly administering the reserves is concerned? The secret of that is that under the act of 1906 settlers would have a right to go in there and make applications for these agricultural lands, and if they were agricultural they would have a right under the law, if it was administered properly, to acquire title to them. But there was an exception to the law, and that was that if the lands were needed for governmental purposes the Government would have the right to retain them in spite of the other provisions of the law. So, wherever there is an agricultural area which a settler might utilize to



his advantage, in order to prevent its being entered by a bona fide settler they have established thereon a ranger station.

I think everyone will agree with me that that is not conservation. It is no part of conservation. It is what the President elect called reservation. It is impeding the settlement of our country. It is that class of administration, Mr. President, from which I ask relief, and nothing else.

If anyone shall go into the northern part of the State which I have the honor in part to represent, he will find scattered all through those reserves these ranger stations. Some of them are upon lands which had originally been entered by the settler. Some of them are upon lands which had not been entered, but undoubtedly would have been entered. In that way the law is so administered as to turn our settlers from our own lands into the lands of Canada. We have, as the statistics of the country will show, lost at the rate of 100,000 citizens each and every year for the last five years, who have gone over into Canada, and expatriated themselves, taking the oath of allegiance to another country, in order to get land, when there were lands at home which they desired but could not get.

Give the West, Mr. President, a bona fide administration of the forestry policy, give them a bona fide and fair administration of the conservation policy, give them an opportunity to send the honest settler to the agricultural land and the honest business man to the natural resources to develop them in a legitimate way, so that the benefit will flow to the masses of the people, and you will never hear a word of complaint from the western people in regard to this conservation policy.

As to power sites, I presume we are all agreed as to the great necessity of holding them under public regulation and control. Few men having regard for the public interest would want for a moment to see them turned over without retaining any direction or control for the benefit of the public. In fact, these power sites constitute a public utility and must necessarily be regulated and controlled by the public in the public interest. If there is any instrumentality coming from nature's generous hand which seems peculiarly to belong to the people and peculiarly adapted to be a servant of the people it is hydroelectric power. But I do not propose myself to be stampeded into an ill-considered, half-hatched scheme which, while ostensibly dedicating these natural resources to the people, is simply burdening them for their use, so that they will have to bear the burden. The true purpose in regard to this matter should be to give the people a cheap service, but the present movement is in the direction of giving them an expensive and burdensome service. No effort, not a single step is being taken to see that the people get cheaper power, cheaper light, cheaper heat, cheaper cooking facilities. But while feigning our desire to serve the people we are in fact preparing to tax them in another form and another more insidious way. If Congress can find a way to levy a new tax, it deliriously hastens to the pleasure. If it can accentuate or accelerate extravagance the ecstasy which accompanies its work is difficult to describe. The people are deriving no benefit from our forest reserves. Although billions of feet of lumber are ripening and rotting year by year they are paying the same prices and watching the rise of prices the same now as before these forests were reserved. Under our proposed power plan they will be in precisely the same position with reference to these great natural resources. The scheme is to tax these powers in every way possible, and everyone must know that this charge will all be paid by the people who use the power, the ultimate consumer.

Mr. BRANDEGEE. Mr. President, I did not hear, at least if I did I do not recall, the provision in the amendment which the Senator said he was going to propose, subjecting this company to the Interstate Commerce Commission. If I recall it, it declares the company to be a common carrier, does it not?

Mr. BORAH. Yes, sir.

Mr. BRANDEGEE. What I was going to ask the Senator is in what respect would the duties or obligations of this public-service corporation be changed by its being declared to be a common carrier? I ask for information. I did not see the legal effect of it; that is all.

Mr. BORAH. In what respect would it change it?

Mr. BRANDEGEE. Would its duties be changed by being a common carrier?

Mr. BORAH. I do not know that its duties would be changed as a corporation, but our relations to it is solely for the purpose in that amendment to fix rates.

Mr. BRANDEGEE. The Senator's idea in declaring it to be a common carrier is not to affect any of its obligations, but for the purpose of bringing it under the control of the Interstate Commerce Commission.

Mr. BORAH. Precisely.

Mr. BRANDEGEE. That is all?

Mr. BORAH. Yes, sir.

Mr. SMITH of Arizona. Mr. President, it had been my purpose to go into a somewhat lengthy discussion of the pending bill, but the ground was so well covered by the Senator from Colorado [Mr. THOMAS] and by a speech formerly made, that is now before the Senate, by the Senator from Idaho [Mr. BORAH], who has just given up the floor, that I feel on this particular bill the question has been more fully and better discussed than I could do it. I therefore will postpone to some other time what I have to say on the general question of the conservation of the West, and to express, as far as I can, my objection to the principle involved in the bill before the Senate.

I will say, however, to the Senator from Connecticut that the Senator from Alabama [Mr. BANKHEAD] apprehended, and I use the word advisedly, that I would probably hold the floor for several hours, and he did not expect a vote on the bill this evening. He is now in the Committee on Commerce, and if that Senator is called to the Chamber and acquainted with the fact, I shall not attempt a discussion of the bill at this time.

Mr. JONES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHURST in the chair). The Senator from Washington suggests the absence of a quorum, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McCumber	Sutherland
Bacon	Foster	McLean	Swanson
Borah	Gallinger	Martine, N. J.	Thomas
Brady	Gamble	Oliver	Thornton
Brandegee	Gardner	Overman	Townsend
Bristow	Gore	Page	Warren
Bryan	Gronna	Paynter	Watson
Chamberlain	Johnson, Me.	Perkins	Webb
Clark, Wyo.	Johnston, Ala.	Poinexter	Wetmore
Clarke, Ark.	Jones	Pomerene	Williams
Cummins	Kenyon	Richardson	Works
Dillingham	Kern	Sheppard	
du Pont	La Follette	Smith, Ariz.	

The PRESIDING OFFICER. Fifty Senators have answered to their names, and a quorum of the Senate is present.

Mr. BRANDEGEE. Mr. President, there are two or three Senators who have told me that they desire to address the Senate briefly on this bill. One of them is here and is now ready to proceed, and two others are absent on committee work and can be here at any time. Besides those Senators, I know of no other Senators who desire to speak upon the bill, except that I shall want, perhaps, five minutes myself. In view of that, and in order to get the sense of the Senate, I ask unanimous consent that the vote on the bill be taken under the unanimous-consent agreement which exists, to-morrow, not later than 4 o'clock.

The PRESIDING OFFICER. The Senator from Connecticut asks unanimous consent that the vote upon the pending bill be taken to-morrow, not later than 4 o'clock.

Mr. GALLINGER. And on the amendments.

Mr. BRANDEGEE. Mr. President, the reason I stated the request in that way was because the unanimous-consent agreement, as it stands, to vote upon the legislative day of Tuesday, includes all amendments and the bill itself to final disposition, so that I have simply asked that the vote shall be taken under the unanimous-consent agreement on the calendar day of to-morrow, Friday, not later than 4 o'clock in the afternoon.

Mr. CLARK of Wyoming. Mr. President, I merely want to make a parliamentary inquiry of the Senator from Connecticut, which is, whether or not that would be a change or modification of the unanimous-consent agreement we have already entered into; and, if so, whether the unanimous consent which he now asks should be granted? I am not urging the suggestion, for I should like to see a vote on the bill as soon as possible, but I am putting the question in view of the precedent it might establish as to the violation of the terms of a unanimous-consent agreement.

Mr. BRANDEGEE. That question has been raised before, and I can only answer the Senator from Wyoming that in my opinion it would not. It would be a unanimous-consent agreement within a unanimous-consent agreement, in my opinion, and not at all in conflict with it. The unanimous-consent agreement as it stands is that we shall vote on the legislative day, which simply means that instead of adjourning we will take recesses, and that nothing else can be done in the way of business until we shall vote.

Mr. GALLINGER. And the Senate has agreed—

Mr. CLARK of Wyoming. Mr. President, it seems to me—

The PRESIDING OFFICER. To whom does the Senator from Connecticut yield?

Mr. BRANDEGEE. I yield the floor.

Mr. CLARK of Wyoming. Mr. President, it seems to me that this proposed unanimous-consent agreement would change the unanimous-consent agreement that we have heretofore entered into. Under the unanimous-consent agreement heretofore entered into the discussion could proceed for a week.

Mr. BRANDEGEE. Yes, it could; but if the Senate is done talking about the matter it is not necessary that the discussion should go on forever.

Mr. CLARK of Wyoming. No; that is true; but the effect of the unanimous-consent agreement which we entered into was that we agreed not to fix a limit for debate.

Mr. BRANDEGEE. I do not regard it so, Mr. President. If we had entered into a unanimous-consent agreement that we would vote upon the matter on the calendar day of to-morrow, and Senators had debated the subject to their hearts' content, and some Senator asked unanimous consent that the vote be taken at 4 o'clock, that would be another unanimous-consent agreement; but it would not be inconsistent with the first one, in my opinion. I know there is a difference of opinion about it.

Mr. CLARK of Wyoming. I am not seeking to dispute it. I am simply suggesting the matter to the Senator as it occurs to me.

Mr. GALLINGER. Mr. President, on at least one former occasion we did precisely what the Senator from Connecticut [Mr. BRANDEGEE] now asks, and I quite agree with the Senator from Connecticut that his present request, if granted, would not be a violation of the unanimous-consent agreement. So I hope the Senator's request will be granted.

The PRESIDING OFFICER. Is there objection?

Mr. JONES. Mr. President, if it is the understanding that the vote will not be taken to-day, I shall not object.

Mr. BRANDEGEE. I had assumed that a vote would not be taken, because there are three speeches which I know of yet to be made, and we probably shall not sit more than an hour longer this afternoon.

The PRESIDING OFFICER. The Secretary will read the request for unanimous consent submitted by the Senator from Connecticut.

Mr. BRANDEGEE. I did not submit the request in writing, Mr. President, but I can restate it. I ask unanimous consent that the vote be taken, in accordance with the existing unanimous-consent agreement in relation to this bill, to-morrow, Friday, not later than 4 o'clock in the afternoon.

The PRESIDING OFFICER. Is there objection to the request for unanimous consent as stated by the Senator from Connecticut?

Mr. JONES. Mr. President, I understand that notice has been given that appropriation bills are to be taken up to-morrow.

Mr. BRANDEGEE. That notice will stand for what it is worth. The existing unanimous-consent agreement is subject to appropriation bills; but I assume that the Senator who gave the notice that he would ask to have the Army appropriation bill taken up to-morrow, if the Senate should agree unanimously to vote not later than 4 o'clock to-morrow on the pending measure, would rather have it out of the way so that morning business may be transacted hereafter.

Mr. JONES. While it is true that the existing unanimous-consent agreement is subject to the consideration of appropriation bills, yet there is no limitation upon the time when the vote shall be taken.

Mr. BRANDEGEE. It would be possible that the whole of to-morrow might be spent upon the Army appropriation bill if the Senate wants to take it up; but if we can come to an agreement to vote on the pending bill to-morrow, I assume the Senator who has the matter in charge would not press the appropriation bill.

Mr. WARREN. Mr. President, in my judgment an appropriation bill will be taken up in the morning to-morrow after routine business, but I assume—

Mr. BRANDEGEE. There is now no routine morning business.

Mr. WARREN. I understood that the Senator proposed to arrange for a vote to-morrow and to have that vote on the calendar day and not on the legislative day.

Mr. BRANDEGEE. That is the proposition.

Mr. WARREN. But if we proceed along the line we are now proceeding, certainly the appropriation bills are in order and could be taken up and proceeded with.

Mr. BRANDEGEE. In order; yes.

Mr. WARREN. But I imagine there will be no difficulty about ceasing their consideration in time to take this suggested vote, if we decide upon it. I think, however, the Army appropriation bill will be taken up and proceeded with for a time, at least, and perhaps finished.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

Mr. BANKHEAD. Mr. President, I should like to have the proposed agreement stated, so that I may know exactly what it is.

The PRESIDING OFFICER. The request for unanimous consent was not reduced to writing, but the Chair will attempt to state it. The Senator from Connecticut [Mr. BRANDEGEE] has asked unanimous consent that to-morrow, not later than 4 o'clock in the afternoon, the Senate will vote upon the pending bill.

Mr. BANKHEAD. And amendments?

The PRESIDING OFFICER. And amendments thereto submitted.

Mr. BANKHEAD. Well, Mr. President, so far as I am individually concerned, that arrangement would suit me; but there are several Senators who desire to be heard on the bill, among them the chairman of the Commerce Committee [Mr. NELSON], who has not had an opportunity to speak upon the bill because of the fact that he has been attempting to perfect the river and harbor bill, on which his committee is now in session. Under these circumstances I shall be compelled to object.

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from California?

Mr. BRANDEGEE. I do.

Mr. WORKS. The only difficulty I see about the matter is that, if the appropriation bill should be taken up to-morrow, it will practically end discussion of the pending bill.

Mr. BRANDEGEE. I will say to the Senator from California that objection has already been made.

Mr. WORKS. I did not intend to object. I only wanted to call attention to the situation.

The PRESIDING OFFICER. Objection has been made.

Mr. BRANDEGEE. I will inquire, Mr. President, of the Secretary whether there is anything on the calendar for Monday in the way of a unanimous-consent agreement?

Mr. MARTINE of New Jersey. Mr. President—

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from New Jersey?

Mr. BRANDEGEE. Before we leave this particular matter will the Senator from New Jersey allow me a moment to ask the Senator from Alabama [Mr. BANKHEAD] whether he would feel constrained to object in behalf of absent Senators to the same request if made for next Monday?

Mr. BANKHEAD. Mr. President, I will suggest to the Senator from Connecticut that he can make that suggestion to-morrow morning just as well as now. I have no disposition to delay the vote, so far as I am concerned, but have objected only for the reason I have stated.

Mr. BRANDEGEE. I understand perfectly well. Then I will state that to-morrow, upon the meeting of the Senate, I shall make a request for a unanimous-consent agreement concerning a vote on the pending bill.

Mr. MARTINE of New Jersey. Mr. President, I ask the Senate now to reconsider the votes by which House bill 17256 was read the third time and passed.

Mr. BRANDEGEE. I did not hear the request of the Senator from New Jersey.

The PRESIDING OFFICER. The Senator will restate his motion. He was not heard.

Mr. MARTINE of New Jersey. Very well.

The PRESIDING OFFICER. As the Chair understands the request, it is not now in order.

Mr. BRANDEGEE. I wanted to hear the Senator's motion myself.

Mr. BACON. Of course the motion is not in order, Mr. President. No other business except that embraced in the unanimous-consent agreement under which the Senate is now proceeding is in order.

The PRESIDING OFFICER. The Senate is proceeding under a unanimous-consent agreement, and the request of the Senator from New Jersey is not now in order.

Mr. BRANDEGEE. I did not hear the request of the Senator from New Jersey; I do not know what the request was.

Mr. MARTINE of New Jersey. I withdraw my request.

Mr. JOHNSTON of Alabama. Mr. President, I ask unanimous consent for the present consideration of a bill on the calendar.

Mr. BRANDEGEE. That is not in order, Mr. President.

The PRESIDING OFFICER. The Chair is obliged to say that the Senator's request is not now in order, proceeding, as the Senate is, under a unanimous-consent agreement.

Mr. POINDEXTER. Mr. President, after the very elaborate and able discussion which has already been had upon the pending bill, it is not my intention to undertake to discuss at length the principles involved in it. I would hesitate even to make the



few observations which I shall make upon the bill and the interests which it involves were it not for the fact that the State which I represent in part is deeply concerned in the question of water-power development and that for many years it has been a very vital question with our people, as it has been throughout the West, what the relations of the Federal Government, of the State governments, and of private individuals should be in the ownership and development of water power.

There have been a great many collateral issues injected into the debate which are not involved in the pending measure. I say "collateral," although in many respects they are entirely irrelevant. The general question of conservation has been discussed. Of course, in one sense this bill involves the question of conservation, but in a very different phase from the question of the preservation of forests or the reservation of public lands for forest purposes by the Government of the United States. Whatever may be done as to the regulation and control, the granting or the withholding of permission to construct a dam in the Connecticut River or any other river; whatever provisions may be made for regulating the charges for power developed there or for taxes upon the property, still the water power will remain. Whoever may own it, whoever may use it, under whatever authority it may be developed, whether the reward or the profits from the development of this power shall be properly distributed, there is no possibility that the power itself, the natural resource which is concerned, shall be wasted or destroyed. In the case of forest reserves an entirely different question is involved—the issue of whether that great natural resource shall be preserved or whether it shall be wasted and extinguished forever.

Before making the brief observations which I intend to make as to the rights and the policy of the Federal Government in the regulation of power development in the streams of the country, I want to say a word, in passing, with reference to the question of forest reserves, which has been injected into the discussion by some Senators who are hostile to forest reserves and by other Senators who are in favor of forest reserves, as I understand is the Senator from Idaho [Mr. BORAH], who objects to such an extent to the administration of the present forest law and who continually attacks that administration with such force and virulence that it at least creates the impression that as the laws are administered he is opposed to the entire policy.

It would seem to be an illogical course for the Government of the United States to pursue to be expending \$11,000,000 in the very start of the proposition to buy forest lands from private parties in order to establish forest reserves in the East and at the same time to abandon forest lands which it already owns in the West, and turn them over, without restriction, either to the States or to private individuals, as a great many opponents of the forest-reserve policy advocate. If the retention by the Federal Government of certain portions of the mountains of the West, of the forested lands of the West, and perhaps some lands in connection therewith that are not forested is an injury to the people inhabiting those States, it seems incredible that the people of a great State like New York should be expending, out of the treasury of the State, \$14,000,000, and more, for the purpose of purchasing lands upon which forests are to be conserved by the State, for the same purpose and with the same effect upon the condition of the people and the conservation of natural resources, of course, as the preservation of forests by the National Government.

I am perfectly free to say that I am in entire agreement with many criticisms which the Senator from Idaho [Mr. BORAH] and the Senator from Colorado [Mr. THOMAS] have made as to certain details of the administration of the forest reserves; but the verdict upon the policy of forest reserves is not to be rendered by a review of the actions of a lot of subordinate agents of the United States Government distributed among the forest reserves and changed from time to time as the administration changes; but it is to be rendered, and ought to be rendered, upon a reading of the statute and a consideration of the principles under which forest reserves are established. The remedy for any maladministration is not an attack upon the policy of forest reserves, but it is by a recourse to those remedies which may be invoked to improve the administration, to correct error, and not, because it has certain imperfections in its application, to destroy the entire policy.

I only heard a portion of the very able and forceful address of the Senator from Colorado [Mr. THOMAS]; but, as I understood, he very clearly enunciated his position as being in entire opposition to the retention at all of public lands for forest-reserve purposes by the Government; at least, he announced the proposition that in general the State administration of public lands had been superior to that of the Nation. So far as I am concerned, I expect to vote and to advocate the re-

tention by the States of every authority and every power which they have to conserve forests upon State lands or upon any lands which may hereafter become State lands by the grant of the Federal Government or otherwise; but I also expect to vote for and advocate, as a corollary to that and as supplementary to that authority, the retention by the Federal Government of every authority and every power which it has in a reasonable way to conserve the forests of the Nation.

The reservoirs of water with which our arid wastes are to be reclaimed are in these mountain forests. The very power under discussion, the mighty forces hidden in our falling streams, have their source and sustenance in the mothering forests of the mountain slopes. Electric power, the subtle slave of man, swift and terrible in its movement but obedient to his gentlest touch, sees its creator in the soft rains and clinging snows the forests hold and filter. Ruthless private avarice would slaughter and destroy the forests, but upon their preservation and upon guarding from private extortion the power of their flowing streams, depend the comfort and prosperity of our people. With a fair distribution of land and its sister water under the fecund sun of the west, and the protection of water power from monopoly, the industrious people of those States will develop a splendid citizenship and enjoy the comforts of an advanced civilization. With the forests destroyed a rich land would revert to waste and desolation.

Now, Mr. President, as to the bill that is under consideration, the debate is somewhat confused because the question of policy is confounded with the question of the power of the Federal Government. Some Senators are opposed to this bill because it does not grant enough. The Senator from Alabama [Mr. BANKHEAD] is opposed to it because it is not an unconditional grant. Other Senators are opposed to the bill because it grants too much. Some Senators have asserted that if the Federal Government has the power to make a grant of this kind it should not exercise that power, but should construct a dam and develop the water power directly through the agencies of the Federal Government.

Mr. BRANDEGEE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Connecticut?

Mr. POINDEXTER. I yield to the Senator from Connecticut. Mr. BRANDEGEE. At that point in the Senator's address I want to suggest to him that while the word "grant" does appear in one or two sections of the bill, in my opinion it is not legitimately to be considered a grant any more than the money condition attached to it is a tax. There is a good deal in the point of view and in the way a person looks at a project, because of the language in which it is described; but Senators will bear in mind that the only function of the Federal Government in this matter is because the petitioners who come here asking for the passage of this bill are obliged to get the consent of Congress before they will be allowed to maintain a dam in a navigable river. That is all this bill does. It gives to these parties, who have maintained a dam for nearly a century at the precise location in this same river, the consent of Congress to relocate the existing dam in the immediate vicinity, but at a point slightly farther along the river, where there is a little more water power. It is nothing but a license on the part of the Government to maintain what would otherwise be an obstruction to navigation, accompanied with conditions which do away with the obstructive character of the work. That is all there is to it.

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from California?

Mr. POINDEXTER. I yield to the Senator from California.

Mr. WORKS. I should like to ask the Senator from Connecticut [Mr. BRANDEGEE], if his view be the correct one, what there is for the Government to buy back? The provisions of this bill provide that the Government shall purchase these works from the company.

Mr. BRANDEGEE. The dam and the business.

Mr. WORKS. The Senator thinks the Government then may go into the business of distributing and selling water to the consumer?

Mr. BRANDEGEE. I hope it will not, and I do not think it ought to do so; but that is not what we are talking about now. If the Government is going some day to condemn these properties in accordance with the views of the distinguished Senator from Colorado [Mr. THOMAS] and itself own and operate all public utilities, then it ought to pay the people who have practically contracted with the State and spent their money in permanent structures and not confiscate their property.

Mr. WORKS. The Government pays nothing; it only gives a permit; and I am wondering what the Government can buy from the person to whom the permit is granted.

Mr. BRANDEGEE. I am answering the Senator as to what the Government can buy. If they have the constitutional authority to do so, they can buy everything. It has cost this company about \$6,000,000 to construct the dam, the dynamos, the buildings where the electricity is generated, its lines, poles, rights of way, and the land it has acquired. All the property in which it has invested its money can be bought—and when I say "bought," I mean it can be condemned.

Mr. WORKS. As I understand, the bill provides for buying it, and that was the reason I asked the Senator the question.

Mr. BRANDEGEE. It provides for condemnation by a court of competent jurisdiction, as the Senator will see if he will look at the terms of the bill.

Mr. WORKS. That is one portion of the bill. But there is also a provision, or an express agreement, to purchase the property, as I understand the bill.

Mr. BRANDEGEE. Of course, if they agree, there is no use in condemning it; but if they disagree as to what it is worth, then they go to the court for the court to decide it.

Mr. POINDEXTER. Mr. President, I expect to vote for this bill, not because I consider the bill what it ought to be but because I consider it an advance over any other similar franchise or permit or grant—whatever term may be applied to it—that has been passed heretofore by Congress. I think it makes very little difference whether it is called a grant or is called a license or whether it is called a permit, the entire question of the power of the Federal Government is disposed of by the consideration of the fact that without this thing, whatever it may be, it is generally conceded, although there seem to be some exceptions to that opinion, that the dam can not be built. It is a permit, a license, a grant by the Federal Government to the licensees or grantees of a power, an authority, and of property, because it is a power and authority which is fixed in its nature and is attached to real estate—a power which the Federal Government now possesses which it can withhold or can convey as it sees fit.

Mr. BRANDEGEE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Connecticut?

Mr. POINDEXTER. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. Of course, if that is the Senator's view, I can not change it; but I do not want to sit silent and agree to it, or seem to agree to it. I do not think it is a grant, unless it conveys some property, and I do not think it does or ought to. I do not think the Government has any property to convey, grant, or bargain to anybody in this navigable stream.

Mr. POINDEXTER. If the Senator will allow me to make a suggestion, it is property, either tangible or intangible; is it not?

Mr. BRANDEGEE. No; I do not think it is the Government's property at all. I think that view of it is what creates most of the opposition to the bill. I think the Government has no right there whatever, except as a trustee for the people to improve the navigation of that navigable river. All this bill provides on that subject, in the third line of the bill, is:

That the assent of Congress is hereby given to the Connecticut River Co. . . . to maintain . . . such . . . dam.

It does not convey anything except the right to maintain. It does not sell any water power, nor does it sell any water; and, in my judgment, it has not any business to sell the water.

Mr. POINDEXTER. I think what name is given to it is entirely academic. I suppose the Senator will agree that the development of this property can not proceed by the company making application for this permit unless the bill is passed; so it is undoubtedly a thing of value, because it has in fact a commercial and a pecuniary value.

This bill contains a provision, which has been sharply criticized, granting to the Secretary of War a discretion to fix tax rates. I should prefer that Congress should fix such rates. When the famous Coosa River Dam bill was pending, at the last session of Congress, I offered an amendment to the bill providing that the power company to which the grant was made should pay to the Government 1 per cent of the net profits derived from light and power.

It seems to me that is a far preferable arrangement for returning to the Federal Government a portion of the profits of this enterprise rather than to leave it in the discretion of the Secretary of War. But because I believe in the principle that there should be paid to the Federal Government some return for the exercise of this privilege and for the authority to operate and conduct this great enterprise, I shall support the bill as it now is, although it is not as I should prefer it. I expect to offer the amendment which I offered to the other bill. I do

not expect that it will get much support, because one section of the Senate is opposed to any tax or return and the other is divided as to the method of fixing the rates.

Mr. JOHNSTON of Alabama. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Alabama?

Mr. POINDEXTER. I yield to the Senator from Alabama.

Mr. JOHNSTON of Alabama. I should like to ask the Senator why, in supporting the bill for the extension of the time for the construction of a dam across the Pend d'Oreille River in Washington under the general dam act, he did not attach a provision that the Pend d'Oreille Development Co. should make compensation to the Government if it is a rule that should have universal application?

Mr. POINDEXTER. I am not aware that I supported that measure.

Mr. JOHNSTON of Alabama. The bill was approved on the 20th day of May, 1912, and relates to the building of a dam under the general dam act without any compensation.

Mr. POINDEXTER. It is a matter of which I have no knowledge, Mr. President. I do not think the Record will disclose that I supported that bill in any way at all.

Mr. JOHNSTON of Alabama. I supposed, as it relates to a matter in the Senator's own State, that he had given attention to the bill.

Mr. POINDEXTER. There are a great many bills introduced relating to my own State about which it would be difficult for me to have any knowledge.

I should prefer, Mr. President, in explaining the position which I take upon the bill, that the amendment of the Senator from Idaho [Mr. BORAH] should be adopted. I think the bill would be a better one with a provision that the Interstate Commerce Commission—I think that is the proper agency of the Government, although some other agency might be selected for exercising that power—should have the right, in case of need to exercise it, to regulate the charges for power conveyed from Connecticut into other States. I think there should be also attached to the measure the amendment, or the substance of the amendment, offered by my colleague from the State of Washington [Mr. JONES], reserving to the State of Connecticut the right to regulate charges for power generated and used entirely within that State, and removing also any question, because of the grant being made by the Federal Government, as to the power of the State to levy taxes upon the property.

Mr. BRANDEGEE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Connecticut?

Mr. POINDEXTER. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. I will say, for the information of the Senator from Washington and other Senators, that the State of Connecticut has a board of public-service commissioners, or what I believe is called a public-utilities board. The General Assembly of the State of Connecticut, which chartered this old navigation company and has amended its charter several times, has reserved the right to alter, amend, or repeal the act of incorporation and the amendments thereto. The legislature itself undoubtedly has the right to regulate the charges, but that is one of the principal functions of our board of public utilities.

If that were not already amply provided for by the statutes of the State which incorporated this company, I should have no objection to the amendment proposed by the Senator from Washington. But it is amply covered by our own State laws, and I am one of those who believe in allowing each State to regulate its own affairs as much as possible, free from the interference of Washington. We have to come here, in this case, to get the permit to cross a navigable river with this dam; that is all.

Mr. CLARK of Wyoming. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Wyoming?

Mr. CLARK of Wyoming. Will the Senator yield for a question for information?

Mr. POINDEXTER. I yield.

Mr. CLARK of Wyoming. I wish to ask the Senator from Connecticut whether or not the public-service commission or the statutes of Connecticut fix the rate of profit beyond which an investment shall not pay?

Mr. BRANDEGEE. No; I think not, Mr. President. I will not be sure, but I am quite firmly of the opinion that there is no limit, except, I believe, no steam railroad company in the State is allowed to pay more than 10 per cent or 8 per cent, whatever it may be. Very few of them are able to earn anything like that.



Mr. CLARK of Wyoming. The query in my mind was whether there might be a conflict between the law or the rule of that commission and the terms of the contract proposed to be entered into here.

Mr. BRANDEGEE. My colleague [Mr. McLEAN] tells me that the charter of this very company limits them to 8 per cent, anyway. The act creating the Public Service Commission of Connecticut, which I have here at my desk, is a long, comprehensive, up-to-date act. It provides in section 23, under the title "Rates and service affecting many persons," for a process by which any 10 persons may bring to the public-service commission a petition alleging too high rates or poor service or any grievance that they may have, and the whole matter is absolutely in the hands of the public-service commission to fix rates and to alter or change them from time to time.

Mr. SMITH of Arizona. If the Senator will pardon me, it occurs to me that if, under this grant, permission or right or whatever you may please to call it, the Government gives anything, if it has anything to give, to the Connecticut River Co., it is provided in this contract or in their charter—I do not remember which, from hearing them read—that they shall not collect more than 8 per cent except under the conditions stated; that is, that they shall divide the surplus.

Mr. BRANDEGEE. No; that is in the act—

Mr. SMITH of Arizona. If the Senator will allow me to finish, he will catch my point. It is immaterial where it is. The question arises, if this be a grant or anything that the Government has a right to give, certainly permission is given by the contract or the charter that they shall have 8 per cent, if they can get that much, and under certain conditions more. In the face of that, if the Government has any right here at all, what effect will that have on the right of the Senator's State to limit the amount or to say what they shall charge for power?

Mr. BRANDEGEE. Mr. President, I think I catch the drift of the Senator's question, though it is a little long. When the Senator talks about 8 per cent or 9 per cent, I think he has in mind something that was published in a newspaper as to the proposed division of profits between the Government and the power company.

Mr. CLARK of Wyoming. No, no; it is published in the return of the Secretary of War.

Mr. SMITH of Arizona. I read it from some report that I saw here the other day.

Mr. BRANDEGEE. Very well. What I was talking about was the original charter of this company, which limited it to 8 per cent.

Mr. SMITH of Arizona. I was speaking of their contract with the Secretary of War, or the proposed contract into which they are to enter. That speaks of 8 per cent.

Mr. BRANDEGEE. I know it does.

Mr. SMITH of Arizona. The Senator already has the balance of my question.

Mr. BRANDEGEE. If the company itself is limited by its own charter to a maximum return of 8 per cent upon the stock, and the Government of the United States passes an act saying that all above 9 per cent shall be divided by the Government and the corporation, I would not give much for what the Government would get out of it.

Mr. SMITH of Arizona. On what ground?

Mr. BRANDEGEE. Because it can not pay more than 8 per cent anyway under its own charter.

Mr. SMITH of Arizona. Then that raises the very question I had in mind, if the Senator will bear with me, as between the Government and the State. If the United States has the power to interfere with this contract to fix limitations, to fix the rate, and to change it when it pleases, the State can not limit it; and if it has not the power, the State has the absolute power to do it.

Mr. BRANDEGEE. I do not think the two things have anything to do with each other. All that was provided by the proposed contract between the Secretary of War and the company was a method of division and compensation, as they called it, between themselves. It had nothing whatever to do with a legal limitation placed by the State of Connecticut upon the dividends that its own companies shall have.

Mr. POINDEXTER. Mr. President, I think I shall have to ask leave to proceed with the very brief remarks I have to make.

Mr. BRANDEGEE. I am very grateful to the Senator for being released, I am sure.

Mr. POINDEXTER. I understand the Senator's question has been answered. The very colloquy between the Senator from Arizona and the Senator from Connecticut, showing a difference of opinion as to whether or not under this grant the State of Connecticut would have power to levy taxes, is a very strong

argument for inserting in the bill an express provision reserving that power to the State of Connecticut.

Mr. BRANDEGEE. There is not a word said about taxes. It is as to the amount of dividends they shall pay.

Mr. POINDEXTER. Apply it to the right to limit dividends, then. The same principle applies to that and the same principle would extend to the right to levy taxes upon property. Every lawyer who has observed the tremendous amount of litigation in the courts on the part of corporations engaged in any form of interstate business or corporations which derive their powers or any part of them from the Federal Government, resisting the collection of taxes by municipalities and by States, will realize that it would be a wise thing for Congress to remove doubt upon that question, in making a grant of this kind, by an express provision that the State shall have the power, and that this grant shall not interfere in any way with the power of the State, to collect taxes or to control other features of this property so far as intrastate business is concerned. So I say that I think the amendment of my colleague from Washington [Mr. Jones], in substance, with some changes, would be an improvement to this bill and an important and valuable amendment to it.

Mr. BRANDEGEE. I could not for a minute agree to that. I could not for a minute agree that if the State of Connecticut has not power to regulate its own creatures and corporations, Congress, no matter how many acts it passed, could give the State of Connecticut any power whatever. Whatever power Congress has was delegated to it in the Constitution made by the States. The States have the power about these matters, and not Congress at all.

Mr. POINDEXTER. I did not expect the Senator from Connecticut to agree to that; but the fact that there is a difference of opinion is the reason I make the suggestion.

Mr. BRANDEGEE. I do not think there is any difference.

Mr. WILLIAMS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Mississippi?

Mr. POINDEXTER. I yield.

Mr. WILLIAMS. I want to suggest this idea, which I think, if followed out with this bill and with other bills, might settle a great many of these differences and might result in a better method of administration.

I take it that what we are all seeking to accomplish—that is, men of my school of thought, at any rate—is this: We are tired of giving to public-utility corporations gratis valuable privileges. We want them to pay something to the public for what they obtain. It seems to me it is a secondary consideration whether that something which is paid shall go to the Federal Government or shall go to the State government.

If it be true that Congress has the power, as an incident to its power to license, to affix conditions to the license granted, then it can affix a condition of payment to the State as well as a condition of payment to itself. It seems to me, therefore, that it would be wiser and in better keeping with the principles of the Government if this bill were to recite that this corporation should pay to the State of Connecticut, instead of to the Federal Government, such taxes as might be fixed by the public-utilities commission of the State of Connecticut. The State of Connecticut has such a public-utilities commission, has it not?

Mr. BRANDEGEE. Yes.

Mr. WILLIAMS. Every State has something by that name, or some body or other, that exercises substantially the same power.

It seems to me that whenever any authority of any description has an unlimited power, whether it be a right or not, to grant or to refuse a license, as an incident to that power it has the right to attach conditions to the license if it grants it. I should like to see the license in connection with public utilities conditioned in a manner that would maintain the right of local self-government and the right of the State; and if any revenue at all is to be derived from it, I should like to see the State derive the revenue.

Mr. BRANDEGEE. Will the Senator from Washington allow me to answer the Senator from Mississippi for a moment?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Connecticut?

Mr. POINDEXTER. Certainly.

Mr. WILLIAMS. One moment. I should like to have the provision in the bill changed so that Congress would grant the license upon condition that the corporation should pay to the State of Connecticut such tax as might be prescribed by the Legislature of Connecticut or the public utilities commission, whichever you choose as the proper authority of the State.

Mr. BRANDEGEE. Let me answer the Senator, Mr. President. I agree with him that Congress has power to attach to

the license any condition which relates to the subject matter of the power under which Congress is acting.

Mr. WILLIAMS. One moment. As a Federal question, the Senator's limitation is correct; but if you are going to make a limitation which shall accrue to the State, then the subject-matter, in so far as the State is charged with it, is the corporation itself.

Mr. BRANDEGEE. The Senator does not give me time to make my point.

Mr. WILLIAMS. All right.

Mr. BRANDEGEE. It is this: The only kind of condition that we can attach to the issuance of this license is a condition in aid of navigation. Under the commerce clause of the Constitution Congress has the sole authority over navigation. If we should say, "We will grant this license provided this company shall pay so much a year to the treasury of the State of Connecticut, to be expended by the legislature of that State in its discretion," it would be utterly null and void, in my opinion, because it would be ultra vires. We have no authority to affix any condition except such a condition as will promote navigation. Does the Senator catch my point so far?

Mr. WILLIAMS. I catch it; yes.

Mr. BRANDEGEE. There is another reason why it would not be wise, even if we had authority, to put that money into the treasury of the State of Connecticut. Congress is supreme in the control of navigable streams. The State of Connecticut can not use money in improving the navigable streams of Connecticut without coming to Washington from time to time to get the approval of the War Department as to where it should be spent, in what rivers, in what proportions, and so forth; and we would lose the services of the Board of Army Engineers and all the machinery through which we make our improvements in navigation.

Mr. WILLIAMS. I think I have caught the Senator's point, but I do not think the Senator has caught mine. As long as the revenue derived from the operation of the provision goes to the Federal Government, the limitation suggested by the Senator is correct. But if the Federal Government should provide, in a general act of any sort, that "nothing herein contained shall contravene any law of the State of Connecticut," that would be perfectly proper.

Mr. BRANDEGEE. I do not think the Senator does catch my point, which is that Congress has no authority to impose any condition or restriction in the issuing of this license except one which relates to navigation.

Mr. SMITH of Arizona. It could not divert it to any other purpose.

Mr. BRANDEGEE. It could say, "You shall pay so much money to be used to improve the navigation of the Connecticut River"; but I do not think it could say that money should be paid into the treasury of the State of Connecticut to be used for anything else except the improvement of navigation.

Mr. WILLIAMS. Mr. President, mine was a mere inquiry, and I do not think I am fully prepared to argue the matter; but I am inclined to think the distinction is about this: Where the Federal Government charges something for a license, it is like a tax which is levied; it must be pertinent or relevant to some delegated power. But wherever it affixes a condition to accrue to a State, that power is not a delegated one at all, and is not limited by any delegation in the Constitution. I am not ready to argue that question now, however, and I should not want to take up the time of the Senate by doing it even if I were. I just threw it out as a suggestion.

Mr. BRANDEGEE. I do not think the Federal Government would have any authority whatever to affix such a condition.

The PRESIDING OFFICER. The Senator from Washington will proceed.

Mr. POINDEXTER. Mr. President, I can not agree with the suggestion of the Senator from Mississippi that the Federal Government shall entirely waive its right to collect revenue from this water power.

Mr. WILLIAMS. I did not want it to waive it. I wanted it in the act to devote it to the State of Connecticut. Even that is doubtful.

Mr. POINDEXTER. As far as a conveyance of power from the Federal Government to the State is concerned, I would much prefer that both jurisdictions should retain the taxing power. Of course that is double taxation, but that is a common feature of taxation. In a great many instances we have triple taxation. We have double taxation, by the State and by the Federal Government, in a great many different lines and a great many different species of property. The fact that it is double taxation ought to be taken into account by both jurisdictions in fixing the rate. But it is so true, as the Senator from Mississippi has said, that we have been granting away valuable privileges

without return, that I for one shall insist that wherever there is a power in the Government, whether State or National, to collect revenue, it shall be retained, and the power to exercise it actively shall be preserved.

Let me now answer very briefly the opposition to this bill, which comes from those who come here rather arrogantly, it seems to me—I do not say Senators come in that attitude, but others come in that attitude—rather demanding these privileges and these grants, and speaking with a tone of resentment and annoyance if it is proposed to attach any conditions to the grant by way of reservation of a right to regulate rates or to collect a revenue from it. The advocates here last year of the so-called Coosa River dam bill are now actively opposing this bill, not because of any lack of power or asserted lack of power in the Federal Government to grant a permit or license to construct this dam, acknowledging the power and the right of the Government to grant or withhold the privilege, but demanding that it shall be unconditional, although it is a water power outside of their State, because they say they do not want to see a precedent established which may affect the Coosa River dam.

There seems to be a sort of obsession on the part of some of the advocates of the Coosa River dam bill. They had introduced in the Senate here the other day and had read, with the signatures attached to it, a resolution which was adopted by some private citizens expressing their opinion upon this measure. One Senator asserted that these individuals were putting their noses into business with which they had nothing to do, he being obsessed, apparently, with the idea that nobody has anything to do with this Coosa River proposition except the power company which is seeking to acquire the right.

These citizens of the United States, who are interested in the Government and in the revenues and property of the Government, according to the advocates of the Coosa River dam bill, ought to keep their mouths shut about water power in general, on the theory that nobody has anything to say about it but those who come here superciliously demanding an unconditional free grant of valuable property. It is an obsession. In addition to all the services of the distinguished Senators in other matters, in war and in peace, they will go down in history as the men who made the Coosa River famous. I think Mr. William Draper Lewis, a distinguished gentleman, a citizen who has rendered good return of his citizenship, is entitled to express an opinion.

Mr. WILLIAMS. Who is he?

Mr. POINDEXTER. Mr. William Draper Lewis.

Mr. WILLIAMS. In addition to the Senators from Alabama making the Coosa River famous, the Senator from Washington is making this gentleman famous.

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Mississippi?

Mr. POINDEXTER. I yield.

Mr. WILLIAMS. The Senator has already yielded, and the remark has been made.

Mr. POINDEXTER. His name was attached to a paper which was introduced by the Senator from Alabama [Mr. BANKHEAD], and he has a right to express his views and his judgment on the general questions of water power, notwithstanding the resentment of the Senator.

Mr. WILLIAMS. I should like to ask a Senator a question there, Mr. President. I know that he knows, or at least I think he knows. If I did not think he knew I would not ask him. Of course any citizen of the United States has a right to petition Congress upon any question or to write to any Senator or to any Representative upon any public question. What I wanted to ask the Senator from Washington was whether he knows that this gentleman and others who write and call themselves the legislative committee of the Progressive Party—

Mr. POINDEXTER. Yes; they have a right to call themselves the legislative committee of the Progressive Party. Why should they not have that right?

Mr. WILLIAMS. I did not want to ask whether they had the right; I did not want to ask whether they had the power or whether they had the liberty under the law to do it or not. I wanted to ask whether they had been constituted by the Progressive Party as a legislative committee, sitting, as the French say, in constant session at Washington.

Mr. POINDEXTER. No; they are not sitting in constant session at Washington; and that does not affect the question in any way at all. The organization of the Progressive Party is rather irrelevant to the question here.

Mr. WILLIAMS. I admit that.

Mr. POINDEXTER. The Senator has admitted that it is immaterial whether they are the legislative committee of the Progressive Party or not. But they are the legislative committee of that party, and are duly constituted as such.



Mr. WILLIAMS. They are duly constituted by this political organization, then, as a legislative committee?

Mr. POINDEXTER. Yes; at a national convention.

Mr. WILLIAMS. I made the inquiry because whenever I got orders from them I wanted to know that they were duly authorized and constituted.

Mr. POINDEXTER. Mr. President, the control of water power by the Federal Government depends upon very different authority, under different conditions. It is asserted generally by many of the opponents to the pending bill that the Federal Government under no condition has the power to control water power or to attach such conditions to the grant of water power. It has been very generally discussed in its application to navigable streams. In a large portion of the country, in many States, a very different phase of the question is involved—where the power site is on public lands belonging to the Nation and where the application for an act of Congress is for a grant of that land.

The Federal Government owns the absolute, unconditional title in those cases; but the same objection is made to any regulation or to any condition in cases where the applicants are seeking a grant of land as is made to this bill, where the land itself is private but where the stream is a navigable stream.

It is perfectly obvious that where the Government owns the abutting property or where the stream is not a meandered stream and the bed of the stream goes to the owners of the land with the patent which is conveyed, the Federal Government in granting the real estate upon which the dam is to be constructed may attach such conditions, may fix such compensation for the grant as it sees fit, the same as any private owner could.

Mr. SMITH of Arizona. Will the Senator permit me to interrupt him right there? There is the very point of the question in which I am personally interested.

Mr. POINDEXTER. I am speaking of it because it is of interest to the entire western country.

Mr. SMITH of Arizona. You make the concession, though, that the Government owns all the right—under what right I do not know—to the nonnavigable waters of the State, when the old doctrine of the riparian right was expressly repealed, if that ever existed. In fact it never did exist. That is the common law of that part of the country.

Now, you say by virtue of the ownership of the land—and the cases are hundreds where the Supreme Court has so decided—the mere fact of proprietary ownership in the land gives the Government the right to withhold the water in a water site from its diversion from the use regulated by the statute of the State. The Government has no more right to the waters nonnavigable—yes, and I will say navigable—in any State than the title they could give by virtue of the owning of public lands; I should say than it could convey to the citizen in issuing a patent to that land. The Government gives to the citizen, in other words, all the title it has. The citizen can immediately be subjected to the eminent-domain power of the State and a right of way across his land for the use of the water for the purposes mentioned in the statute.

You profess to withhold these water rights by the mere fact of the proprietary ownership by the Government of the land, when the Supreme Court has decided in more than one case that over the rights of way even of the Federal Government the State can carry the water of its streams that are nonnavigable. That is equally true of navigable streams, for the only distinction between them is the mere easement that the Government has in the navigable water, and I have never known a case where an easement carried any power with it further than the exercise of the pure right of the easement itself.

Therefore the Government itself has no more power by the mere ownership of the public land in the nonnavigable waters of our rivers than you or I individually have, for the Supreme Court from the case in Third Howard down to now has decided that it is a proprietary ownership that the Government has.

So there is the whole point of our contention, that the Government, having no power, can not reserve these water rights. Our objection to the bill of the Senator from Connecticut is that you are giving a license or an apparent precedent for the Senate of the United States to carry out a doctrine which means nothing more nor less than the absolute desolation of the western country. You dedicate to deserts and to everlasting silence a country that we have been struggling for 30 years to make habitable. And this is what you call conservation.

Mr. POINDEXTER. Mr. President, the Senator from Arizona misapprehends anything that I said if he conceives that I asserted the Federal Government had the right to the water in the streams. I said that it had the right to the land, and that

in granting the land they could retain such compensation or fix such conditions as any other owner of land in conveying it had the power to do.

Mr. SMITH of Arizona. I will grant that, as a matter of course.

Mr. POINDEXTER. The retention of compensation or of the right to regulate the use of that land and of the water which flows over it is simply a retention of the power which the Government already has as a riparian owner in this case to use that water.

Mr. SMITH of Arizona. If the Senator will pardon me, there is no riparian right, and never has been.

Mr. POINDEXTER. The Senator is entirely mistaken.

Mr. SMITH of Arizona. If the Senator will show me where it is—the constitution of Arizona and its statutes dedicated the waters, and the Government has recognized that ever since 1863.

Mr. POINDEXTER. I am not familiar with the laws of Arizona, but the common law of riparian rights still exists in Washington, and I suppose in Arizona also, modified by the right to appropriate water, where needed and under certain conditions, for irrigation.

The dedication and the declaration of the control of the State over the waters of the State do not interfere in any way whatever with the riparian right. The right to divert the water for irrigation, the right to use it for manufactures, the right of the riparian owner under the common law where they are not in conflict with each other, are all in force in the State of Washington. If a man under some superior right takes water out of a stream for the purpose of irrigation and interferes with the riparian right of an owner lower down the stream, it is not actionable.

Mr. SMITH of Arizona. It is under the English doctrine, absolutely.

Mr. POINDEXTER. It is not under the western doctrine. But he has no right to divert the water of the stream otherwise than for the special purposes provided by the laws of the State, to the injury of the riparian owner lower down.

Mr. SMITH of Arizona. The riparian right of the English and the American common law, if we had it, is the same now that it was in the beginning, that in all riparian rights the river must flow undiluted in substance and undiminished in quantity. That is the riparian doctrine. And now you are appealing to a riparian doctrine to divert water from a stream. You had as well talk of a square circle.

Mr. POINDEXTER. There are many rights still preserved in the West as incident and appurtenant to riparian ownership. But the question at issue is not that of diverting water from a stream. It is that of granting power to erect a dam in the stream.

Mr. SMITH of Arizona. There is no difference.

Mr. POINDEXTER. Ordinarily the people who secure the right to erect these dams from the Federal Government at the same time secure a right to the use of the water under the State statute. The Federal Government does not grant the right to use the water. It grants a different interest in the project which is to be developed which is just as essential a part of the completed plant as the use of the water. It may be for manufactures; it may be for, and usually is for, the development of electrical energy. The flow of the water is not diminished. It proceeds in its course undiminished and in accordance with every requirement of the laws of the State, of the law of riparian ownership where that is applicable, or of the right to use the water for irrigation where that is applicable.

There can not be any question, Mr. President, as to the power of the Federal Government, if it has control over the erection of dams in streams where it owns the sites, where it owns the land, or in streams which are navigable where it does not own the land, to attach conditions upon which the grant shall be made; and that is all that is asked in this case.

Mr. SMITH of Arizona. If I am correct in my contention that the Federal Government is merely a proprietary owner, does the Senator from Washington conceive that the Federal Government can do anything more than any other proprietary owner of lands could do, in the face of a statute and of a Constitution that say all these waters belong to the State and the people of the State?

Mr. POINDEXTER. Any other owner could do the same thing.

Mr. SMITH of Arizona. He can not.

Mr. POINDEXTER. I differ with the Senator from Arizona.

Mr. SMITH of Arizona. I do not mean to differ so emphatically with the Senator, for he is apt to know as well as I. I want at least to concede that to him.

Mr. POINDEXTER. If the Senator from Arizona owns land which is needed for the development of a water-power project he can attach his own conditions, unless the State should condemn it and it should be acquired under some public law which fixes the conditions.

Mr. SMITH of Arizona. No.

Mr. POINDEXTER. But if it were to be acquired by the voluntary grant of a private owner the private owner could attach every condition to the grant which is sought here or has ever been suggested here to be attached to these bills on the part of the Government.

Mr. SMITH of Arizona. The Senator and I are not so far apart as I thought. Here is my contention. It is that neither I nor the Federal Government can by the erection of a dam on a power site in any one of the irrigating or desert States interfere with anybody. I can erect a dam if I do not interfere with anybody, and that dam can stay there, and the Government can erect it if it does not interfere with anybody. The Government, under the decision and under the Constitution, may erect a dam to-morrow, and if the Government is doing nothing with that water I can take it out, by the right of eminent domain, across Government land and submit it to irrigation, and the Government can not complain, for there is no title to that water except use, and the Government can not withhold it from use.

Mr. POINDEXTER. I do not care, Mr. President, to pursue further the question of title, because it is not involved in the case. I admit that the title to the water may depend and does depend upon a different ownership. The right to the use of the water may be invested in the private individual. Some private individual lower down the stream may long ago in our western country have acquired by prior appropriation, which is a fundamental law of irrigation, the right to divert water from the stream for the purpose of irrigating his land. Neither the Federal Government, of course, nor the State government has any right to grant an authority to that water in the stream above him so as to deprive him of that use.

That question of State or Federal control of waters is not involved, whether it is proposed by a private company to take the water to the detriment and injury of the lower proprietor who has appropriated it for irrigation, or whether it is simply a grant by the Government of the right to erect a dam across the stream without any condition as to the use of the water on the part of the Government.

Mr. SMITH of Arizona. If the Senator will bear with me once more—

Mr. POINDEXTER. The right to divert the water would depend upon the laws of the State or upon the private corporation, which may have acquired the use of the water under the laws of the State. It is not involved in the bills pending here and which are under discussion; nor is it here proposed, so far as I have seen by any amendment which has been offered to them, to affect in any way whatever—

Mr. SMITH of Arizona. If the Senator will pardon me—

Mr. POINDEXTER. Just let me complete the sentence. To affect in any way whatever the right to use the water owned by any private individual or owned by the State.

Mr. SMITH of Arizona. Now, if the Senator will pardon me one more interruption, I shall not interrupt his further statement of the matter.

Mr. POINDEXTER. I will yield the floor in a very few minutes.

Mr. SMITH of Arizona. I will be done with one question. We think in this bill a precedent has already been set, and we see in it a governmental purpose to carry the doctrine of the bill into the conditions which I have just been speaking of.

Mr. POINDEXTER. Some people see spooks and things at night. I do not see anything in the bill interfering with the free operation of the constitution and laws of the State upon the waters of the State.

Mr. SMITH of Arizona. I judge that largely from the arguments I have been listening to lately.

But aside from that, the navigable water in the Connecticut River was owned by that country long before the Government had any right to it whatever. In its original state they granted an easement over it for navigation. Now, that has existed for a hundred years. To-day they start out on the new doctrine that the United States Government, instead of the State of Connecticut, will take the Connecticut River, and the State of Connecticut ought to have it. The water belongs to the State, and the Government has no more title to it than I have, if not used for navigation, for if the Government can develop power and use that, it can run a cotton mill and sell the cotton at a profit; it goes into commercial business. If this goes to Connecticut, that State, under the regulation of a State law, will protect the people of Connecticut from this governmental tax,

save the consumers of this power in Connecticut, and conserve their interest by keeping the heavy hand of the Government's taxation off their own development.

I claim that these waters do not belong to the Government any more than the nonnavigable waters of the West belong to the Government. Then the Government has no business to put its hand on it in any way further than to improve its navigation. When it gives a party the privilege to improve the navigation, it can say what sort of a dam it shall build, what sort of locks it shall build, and also the power, probably, to open the locks and close them as boats pass. I think the Senator from Connecticut concedes that the Government can not go outside of the delegated power to open and protect the navigation of the stream. Outside of that the water is as free to the State of Connecticut as the nonnavigable waters of the West are free to the people of that part of the country.

If you permit the Government to do these things, Senators, as sure as I stand here, under a pretense of helping the people, under a cry against monopoly, you are going to monopolize the waters as you have already monopolized the land, and, as I said before, and say finally, you will put an absolute quietus on the development and let trees grow where men ought to flourish.

Mr. POINDEXTER. It is rather a curious argument advanced by the Senator from Arizona and other Senators, that because in times past the Government has been too liberal in granting away the land we ought to continue to be excessively liberal in the grant of nature's resources—

Mr. SMITH of Arizona. Oh, no; on the contrary—

Mr. POINDEXTER. And pass bills involving the development of water power in navigable or nonnavigable streams without any conditions attached, without any right reserved to regulate rates or to collect revenues.

Mr. SMITH of Arizona. The States reserved that. I wish to say to the Senator that he and I are aiming at exactly the same purpose.

Mr. POINDEXTER. If the Senator from Arizona will allow me, I will conclude the very brief remarks which I desire to deliver.

Mr. SMITH of Arizona. I wish to say to the Senator that he and I are aiming at exactly the same purpose. I am as much a conservationist in this matter as the Senator from Washington can possibly be. So, far from opposing the Senator's position, I am trying to show him that I am attempting to obtain the very same thing that he is attempting to secure. I believe in the Senator's wholesome doctrine that these things must be preserved for the use of the people; that they must be kept out of monopoly; but I think the Senator is following the course that will turn them into the hands of monopoly. I extend my hand to the Senator to help accomplish the purpose at which we are both aiming. The only difference is in the manner of accomplishment. There is where our roads divide, the Senator thinking one procedure would best accomplish the desired result, and my idea being that, under certain conditions with which I am acquainted, the Senator's method would ruin, while in my judgment the other method would accomplish what he and I are both striving to do. I think the difficulty in this whole matter is because of the diversity of interests, the separate surroundings, and the different atmosphere and purposes of the people.

Mr. POINDEXTER. Mr. President, there is no provision in the pending bill which undertakes on the part of the Federal Government to grant to the Connecticut River Co. any part of the waters of the Connecticut River. There are some provisions in the bill regulating the flow of the water in the river and providing that at certain periods it shall be at certain stages, which are obviously in the interest of navigation. I think it will not be contended by anybody that that is not within the power of the Federal Government.

Mr. SMITH of Arizona. Clearly so.

Mr. POINDEXTER. So far as it does not interfere with navigation, the State of Connecticut, or any private individual in the State of Connecticut, lawfully or unlawfully could deprive this Connecticut River Co. of every drop of water which it sought to use for the purpose of developing electrical power, and the Federal Government would have no right to complain, nor could the Connecticut River Co. assert any authority under this grant from the Federal Government, because the grant does not undertake to confer upon it the right to use any water.

Mr. SMITH of Arizona. But the State gives the right to this company. There is where we agree again. The Federal Government grants the State nothing.

Mr. POINDEXTER. Is the Senator from Arizona complaining about the State giving the right?



Mr. SMITH of Arizona. I am not complaining about the State giving the right to the Connecticut River Co. I am complaining about the Government interfering with the right which the State and the individual alone has to do with, and the State can best conserve that right.

Mr. POINDEXTER. In what respect does the Government interfere with the right of the State?

Mr. SMITH of Arizona. By pretending to say, "We can change this contract given to these people by the State."

Mr. POINDEXTER. There is nothing in this contract as to the use of the water in the stream, nor is there in any one of these bills conveying water-power sites in nonnavigable streams in the West. The right to use the water depends upon different laws, a different authority. I agree with the Senator from Idaho [Mr. BORAH] that it would be perfectly futile and beyond the power of the Federal Government to undertake in an act of Congress to fix the right to use the water or to grant authority to use the water. This bill does not undertake to do so.

Mr. President, I have stated under some difficulties, on account of frequent interruptions, my views about these matters. It is urged by some Senators that the bill ought not to be passed in any form. Those Senators at the same time are opposing what is called "conservation," on the ground that the natural resources ought to be developed; that water power ought to be used. How can water power be developed in the Connecticut River at this point unless the Federal Government, under the authority which it has and which is necessary in order to enable the Connecticut River Co. to proceed with this work, grants that authority? To refuse this grant altogether is not in the interest of the development and use of natural resources, of which we hear so much. On the other hand, I will say, in just one word, the development of the natural resources of the country is not necessarily promoted by unconditional grants to private individuals or corporations. In some of the counties of the State of Washington three-fourths of their area has for years been owned by private companies.

They are not being developed; they are not open for settlement; they are not open for homes; they pay but an inadequate portion of the taxes which go to support the county and State governments. Many of the great water powers of the West have for many years been in private hands, but that does not result in their development. They are held for speculative purposes, and will perhaps be held for many years for speculation, in private hands.

It is admitted by the Senator from Colorado [Mr. THOMAS] that there is an incipient water power trust; that it has power, or will have power, to extort unreasonable prices from the people for the use of the electrical energy which has become a necessity of their communities. The question that is involved in this bill, in view of that water-power monopoly, is whether when the Federal Government has an opportunity to reserve a power which may be used to restrain an arrogant and merciless monopoly, it shall be surrendered. I am opposed to that surrender. This bill is not in conflict with any right or authority of the States; and, if necessary, the rights of the State should be expressly excepted from any privilege granted in this bill. Both the power of the Federal Government and the power of the State, wherever it exists, should be preserved, so that if one jurisdiction fails to exercise it, the people may find relief through the activity of the other.

Mr. BRANDEGEE. Mr. President, I am not at all worried about the State of Connecticut losing any rights that it may have in the rivers within its limits by any bill that Congress may pass. Any bill that Congress undertook to pass assuming any rights that it did not have in the navigable rivers in the State of Connecticut would be absolutely null and void. I do not think any amendment is necessary to the bill in that respect. I am generally opposed to the use of unnecessary language, either written or spoken, and I hope that the amendment will not prevail.

There is absolutely nothing in this bill or sought to be obtained by the passage of the bill except the permission from the United States Government to maintain a dam, which, as I have said, has been substantially in position for 80 years or more in the Connecticut River, and to attach to the issuing of that permit the provision that the company which obtains the permit shall annually pay to the United States Treasury a certain sum of money to be devoted to the improvement of navigation on the very river which is crossed by the dam. It is a perfectly simple proposition. Those who believe that the Government can attach to the issuing of the permit a condition that the licensee should pay a sum of money should vote for the bill; those who believe that the Government has no such constitutional authority under the commerce clause of the Constitution should vote against the bill.

For two or three days here we have roamed over the country, from the tops of the Sierra Nevada Mountains, through the Rockies, down to the Rio Grande, through all the arid States, and the Delta of the Mississippi, talking about forest reserves and intricate questions of ownership of the water. We have discussed who owns it when it is in the Atlantic Ocean and who owns it when it is in the process of evaporation, and when it is being blown ashore and precipitated upon the tops of mountains and flowing back to the sea again—interesting, speculative, and somewhat obscure questions, but absolutely irrelevant to the question which ought to be debated on this bill.

I think the Government has a clear and unquestioned right in issuing these licenses to impose a money payment upon the licensee, to be devoted to the purposes of navigation, and to nothing else; and I think it has a right to say it shall be paid into the United States Treasury and appropriated in the discretion of Congress to improve the navigability of the Connecticut River. I may be entirely wrong about that. Some good lawyers think the other way. The Senator from New York [Mr. ROOT] this morning made an elaborate argument upon that question, with which I am in entire accord. Those who differ with us probably will remain in their opinion until the Supreme Court has decided this question. I do not know of a better case through which to get the opinion of the Supreme Court than this; and I should like very much to have the bill passed and the matter presented to the Supreme Court. If they decide that Congress has no right to attach such a requirement to the issuing of the license, we will know what policy to adopt in the future, while if they decide we have the right, we will know what policy to adopt; but I will venture to say, so long as the President vetoes bills because they do not contain a clause for a money payment and so long as one branch or the other of Congress declines to pass them if they do contain such a provision, we will simply be in a hopeless maze of words, to which there is no end in this body.

A good deal has been said about this bill in some way being something that it does not purport to be; that under the guise of improving navigation the Government is entering into the manufacturing business or the power business, or some such thought as that. It has been said that the dominating motive for the passage of this bill is to generate power, not to improve navigation. Well, there is not any dominating motive about it. The entire motive of the petitioners is to engage in the manufacturing and the selling of electrical power, and the entire motive of the Government is to improve navigation in that river. The Government can not escape its duty under the Constitution. It is obliged to say "yes" or "no" to the issuing of this permit and attach the necessary conditions. It is a straight-out navigation project on the part of the United States Government and a straight-out business proposition on the part of the petitioners for the license. Owing to the situation, naturally there has to be joint action; and in that joint action for the preservation of navigation and its improvement and the development of water power on the river it seems to me to be a perfectly proper and legitimate constitutional action on the part of the Government and a perfectly commendable and praiseworthy undertaking on the part of the petitioners for the license.

It has been said that this money, if it be paid, comes out of the consumers of the electrical power. Of course it does. No company which is required to make any payment gets its money anywhere except from the goods it has to sell. If the Government leases a coal mine to anybody, the consumers have to pay more for the coal than they would if the Government gave it to them free; and it seems to me no legitimate argument against the bill that the company has got to earn the money which it pays into the United States Treasury and which, in turn, the United States Treasury will pay out to improve navigation; but, of course, Senators who are afraid that in some way or other the clause authorizing the payment in the interest of navigation will constitute a precedent for some action of the Government in a different part of the country, under different conditions, attack the bill upon all sorts of grounds and theories. I am inclined to believe that a good many of them are fictitious and not sound objections to the bill.

As I have said, Mr. President, to-morrow I shall ask the Senate to give unanimous consent to the fixing of a particular day and hour to vote upon the bill.

FOREST RESERVES IN WASHINGTON (S. DOC. NO. 1075).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, in response to a resolution of the 17th ultimo, certain information with reference to the names of the forest reserves in the State of Washington, their areas, the number of homestead entries allowed in each, the number of ranger stations, etc., which, with the accompanying papers, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

## ASSESSOR'S OFFICE OF THE DISTRICT OF COLUMBIA (S. DOC. NO. 1074).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the president of the Board of Commissioners of the District of Columbia, submitting a supplemental estimate of appropriation for the service of the fiscal year ending June 30, 1914, assessor's office, \$15,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

## THE CAPITOL GROUNDS (H. DOC. NO. 1392).

The PRESIDENT pro tempore laid before the Senate the report of the Commission for Enlarging the Capitol Grounds, which was referred to the Committee on Public Buildings and Grounds.

## FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

Anna Coakley, widow of Timothy Coakley, and Thomas W. Woodward v. United States (Mare Island Navy Yard) (S. Doc. No. 1085);

William W. Pidgeon and Julius B. Price, administrator of George W. Conway, deceased, v. United States (League Island Navy Yard) (S. Doc. No. 1086);

John Coward, subnumber 94; Thomas R. Harbridge, subnumber 95; William H. Kiner, jr., subnumber 96; and Robert Mulready, subnumber 97, v. United States (League Island Navy Yard) (S. Doc. No. 1084);

William F. O'Hearn and John W. Simonson v. United States (Boston Navy Yard) (S. Doc. No. 1083);

George E. McIntosh v. United States (Portsmouth (N. H.) Navy Yard) (S. Doc. No. 1082);

William S. Bande, and sundry subnumbered cases, v. United States (League Island Navy Yard) (S. Doc. No. 1081);

Ellen Bonner, widow of George Bonner, deceased, and sundry subnumbered cases, v. United States (Brooklyn Navy Yard) (S. Doc. No. 1080);

Richard Barrington, and sundry subnumbered cases, v. United States (Brooklyn Navy Yard) (S. Doc. No. 1079);

Lawrence M. Herbert and George C. Stanley v. United States (Washington Navy Yard) (S. Doc. No. 1078);

John E. Amazeen, and sundry subnumbered cases, v. United States (Portsmouth (N. H.) Navy Yard) (S. Doc. No. 1077); and

Henry B. Colson, and sundry subnumbered cases, v. United States (Portsmouth Navy Yard, Portsmouth, N. H.) (S. Doc. No. 1076).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 4043) divesting intoxicating liquors of their interstate character in certain cases.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes; further insists upon its disagreement to the amendments upon which the first committee of conference have been unable to agree; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON of South Carolina, Mr. BURLISON, and Mr. GILLET managers at the conference on the part of the House.

The message further informed the Senate that Mr. TAYLOR of Colorado had been appointed a member of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., vice Mr. FERRIS.

The message also transmitted to the Senate resolutions of the House on the life and public services of Hon. WILLIAM P. FRYE, late a Senator from the State of Maine.

The message further transmitted to the Senate resolutions of the House on the life and public services of Hon. GEORGE HERBERT UTTER, late a Representative from the State of Rhode Island.

The message also transmitted to the Senate resolutions of the House on the life and public services of Hon. ALBERT HAMILTON HUBBARD, late a Representative from the State of Iowa.

## REPORT OF COMMITTEE ON INDIAN AFFAIRS.

Mr. OWEN, from the Committee on Indian Affairs, reported an amendment authorizing the Secretary of the Treasury to extend each of the deferred payments on the town lots of the north addition to the city of Lawton, Okla., one year from the date on which they become due under the existing law, etc., intended to be proposed to the Indian appropriation bill, submitted a report (No. 1208) thereon, and asked that it lie on the table and be printed, which was agreed to.

## AMENDMENT TO THE AGRICULTURE APPROPRIATION BILL.

Mr. GUGGENHEIM submitted an amendment proposing to appropriate \$15,000 to enable the Secretary of Agriculture to investigate the cultivation and acclimating of potatoes, and the development of improved and disease-resistant types, and for the investigation of leaf roll, dry rot, and other new diseases, etc., intended to be proposed by him to the Agriculture appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

## MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE FOSTER.

Mr. PAGE. Mr. President, I wish to give notice that on March 1, 1913, I will ask the Senate to consider resolutions commemorative of the life and public character of DAVID J. FOSTER, late a Representative in Congress from the State of Vermont.

The PRESIDENT pro tempore. The notice will be entered.

Mr. BRANDEGEE. Mr. President, if there is no other Senator who desires to make remarks on the pending bill to-night, I move that the Senate take a recess until 12 o'clock noon to-morrow.

The motion was agreed to; and (at 5 o'clock and 37 minutes p. m., Thursday, February 13) the Senate took a recess until Friday, February 14, 1913, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 13, 1913.

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, we thank Thee that the time has come in the onward march of progress when we do not in the last analysis measure a man's life by his political or religious creed, by the position he may chance to hold, by his earthly possessions, nor by the circle in which he moves, but by what he has contributed to the common weal, the motives which prompted action, the character he has woven into the tissues of his soul. Touch us by the majesty of Thy wisdom, power, and goodness that we may measure up to the ideals as we know them in Christ Jesus our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I call up the conference report on the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and I ask that the statement be read in lieu of the report.

The SPEAKER. The gentleman from South Carolina [Mr. JOHNSON] calls up the conference report on the legislative, executive, and judicial appropriation bill (H. R. 26680), and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

There was no objection.

The conference report is as follows:

## CONFERENCE REPORT (NO. 1498).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 31, 32, 33, 34, 35, 36, 40, 48, 51, 52, 70, 99, 100, 104, 105, 117, 118, 119, 125, 126, 127, 128, 132, 133, 141, 157, 158, 159, 175, 197, 198, 199, 202, 206, 207, 218, 219, 220, 221, 236, 241, and 242.



That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 28, 29, 30, 41, 42, 43, 46, 47, 49, 50, 54, 55, 56, 57, 58, 62, 63, 64, 65, 66, 67, 69, 71, 72, 73, 74, 75, 91, 92, 96, 97, 101, 102, 103, 107, 108, 109, 110, 111, 112, 120, 121, 122, 123, 124, 129, 130, 131, 134, 135, 136, 143, 144, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 176, 203, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 222, 227, 228, 229, 230, 231, 232, 233, 234, 237, and 238, and agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In line 8 of the matter inserted by said amendment strike out "\$3,500" and insert in lieu thereof the following: "\$2,000, or so much thereof as may be necessary"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$74,525"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows: At the end of the matter inserted by said amendment insert the following: " : *Provided*, That no person shall be employed hereunder at a compensation in excess of \$4,000 per annum"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$87,990"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$4,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$16,120"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For legislative expenses, namely: Salaries of Members, \$216,000; mileage of Members, \$6,500; salaries of employees, \$5,160; printing of laws, \$3,500; rent of legislative halls and committee rooms, \$2,000; stationery, supplies, printing of bills, reports, and so forth, \$3,500; in all, \$42,260, to be immediately available"; and the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$166,358"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$840"; and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$17,640"; and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$840"; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$15,960"; and the Senate agree to the same.

Amendment numbered 137: That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment as follows: In lines 3 and 8 of said amendment strike out "\$31,200" and insert in lieu thereof "\$30,000"; and the Senate agree to the same.

Amendment numbered 138: That the House recede from its

disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "\$1,375"; and the Senate agree to the same.

Amendment numbered 140: That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$2,500"; and the Senate agree to the same.

Amendment numbered 142: That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$275,820"; and the Senate agree to the same.

Amendment numbered 145: That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "one at \$2,400"; and the Senate agree to the same.

Amendment numbered 146: That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$631,250"; and the Senate agree to the same.

Amendment numbered 174: That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment as follows: In line 8 of the matter inserted by said amendment, before the word "to," insert the following: "or so much thereof as may be necessary"; and the Senate agree to the same.

Amendment numbered 200: That the House recede from its disagreement to the amendment of the Senate numbered 200, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$30,000"; and the Senate agree to the same.

Amendment numbered 201: That the House recede from its disagreement to the amendment of the Senate numbered 201, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$36,000"; and the Senate agree to the same.

Amendment numbered 204: That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$25,000"; and the Senate agree to the same.

Amendment numbered 205: That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$7,000"; and the Senate agree to the same.

Amendment numbered 223: That the House recede from its disagreement to the amendment of the Senate numbered 223, and agree to the same with an amendment as follows: In lieu of the number proposed insert "eleven"; and the Senate agree to the same.

Amendment numbered 224: That the House recede from its disagreement to the amendment of the Senate numbered 224, and agree to the same with an amendment as follows: In lieu of the number proposed insert "twelve"; and the Senate agree to the same.

Amendment numbered 225: That the House recede from its disagreement to the amendment of the Senate numbered 225, and agree to the same with an amendment as follows: In lieu of the number proposed insert "nine"; and the Senate agree to the same.

Amendment numbered 226: That the House recede from its disagreement to the amendment of the Senate numbered 226, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$73,260"; and the Senate agree to the same.

Amendment numbered 239: That the House recede from its disagreement to the amendment of the Senate numbered 239, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$56,680"; and the Senate agree to the same.

Amendment numbered 240: That the House recede from its disagreement to the amendment of the Senate numbered 240, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$7,000"; and the Senate agree to the same.

On amendments numbered 2, 7, 8, 11, 23, 24, 25, 26, 27, 37, 38, 39, 61, 68, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 93, 94, 95, 139, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 160, 161, 162, 163, 177, 178, 179, 180, 181, 182, 183, 184,

185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, and 235 the committee of conference have been unable to agree.

J. T. JOHNSON,  
A. S. BURLISON,  
FREDK. H. GILLET,  
*Managers on the part of the House.*

F. E. WARREN,  
GEO. PEABODY WETMORE,  
LEE S. OVERMAN,  
*Managers on the part of the Senate.*

The Clerk read the statement as follows:

#### STATEMENT.

The managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year 1914, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the amendments of the Senate, namely:

On amendments Nos. 1, 3, 4, 5, 6, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22, all relating to the Senate: Provides for compensation and for employees of the Senate, as proposed in the said Senate amendments; appropriates \$2,000, instead of \$3,500 as proposed by the Senate, for removal of documents of the Senate in rented warehouses; and appropriates \$50,000, as proposed by the Senate, instead of \$25,000, as proposed by the House, for expenses of inquiries and investigations ordered by the Senate.

On amendments Nos. 28, 29, and 30: Appropriates for an assistant engineer at \$1,200, instead of a laborer at \$800, under the Superintendent of the Capitol Building.

On amendments Nos. 31, 32, 33, and 34: Strikes out the increases proposed in the salaries of the clerk, assistant clerk, and janitor to the Committee on the Judiciary of the House.

On amendments Nos. 35 and 36: Strikes out the proposed increase of one assistant, at \$540, in the Mail and Delivery Division of the Library of Congress.

On amendments Nos. 40, 41, 42, 43, and 44, under the superintendent of the Library building and grounds: Strikes out provision for 1 additional watchman, at \$720; increases the pay of 14 laborers, from \$480 to \$540 each; provides for 5 additional charwomen, at \$240 each; and increases the pay of an electrician from \$1,200 to \$1,500.

On amendment No. 45: Appropriates \$15,000, as proposed by the Senate, for establishment and maintenance of the system of efficiency ratings by the Civil Service Commission, with the provision that no greater sum than \$4,000 per annum shall be paid as compensation for any one person.

On amendments Nos. 46, 47, and 48, relating to the contingent fund of the State Department: Authorizes exchange of horses and vehicles, and strikes out the provision, proposed by the Senate, for equipment of drivers.

On amendments Nos. 49, 50, 51, 52, and 53: Increases the salary of the Chief of the Bookkeeping and Warrant Division of the Treasury from \$3,500 to \$4,000, and the assistant chief from \$2,700 to \$3,000, and strikes out the provision for an executive clerk, at \$2,500, instead of a bookkeeper, at \$2,000.

On amendments Nos. 54, 55, and 56: Provides for seven skilled laborers, at \$900 each, instead of seven clerks, at \$1,000 each, for postal-savings work in the office of the Auditor for the Post Office Department.

On amendment No. 57: Appropriates \$6,000, as proposed by the Senate, for furniture and labor-saving machines in the office of the Treasurer of the United States.

On amendment No. 58: Authorizes the detail of employees in the offices of the Assistant Treasurers for duty in the office of the Treasurer at Washington.

On amendments Nos. 59 and 60: Increases the salary of the Chief of the Secret Service Division from \$3,600 to \$4,000, instead of \$4,500, as proposed by the Senate.

On amendment No. 62: Appropriates \$4,800, as proposed by the Senate, instead of \$3,000, as proposed by the House, for examination of mints.

On amendments Nos. 63, 64, 65, and 66, relating to the office of the Surgeon General of the Public Health Service: Provides for one additional clerk at \$1,600, one at \$1,400, and three at \$1,000 each.

On amendment No. 67: Authorizes the purchase of supplies for labor-saving machines in the Treasury Department.

On amendment No. 69: Appropriates \$2,620,000, as proposed by the Senate, instead of \$2,565,000, as proposed by the House,

for salaries and expenses of revenue agents, storekeepers, storekeepers' gaugers, and fees and expenses of gaugers, in the Internal-Revenue Service.

On amendment No. 70: Appropriates \$90,000, as proposed by the House, instead of \$100,000, as proposed by the Senate, for miscellaneous expenses of the Internal-Revenue Service.

On amendments Nos. 71, 72, and 73, relating to the office of the assistant treasurer at Chicago: Provides for an assistant cashier at \$2,000 instead of a clerk at \$1,600.

On amendments Nos. 74 and 75: Increases the pay of a messenger from \$500 to \$600 in the office of the assistant treasurer at New Orleans.

On amendments Nos. 91 and 92: Provides for an additional clerk, at \$1,600, in the assay office at New York, and makes a verbal correction in the language of the appropriation for contingent expenses of that office.

On amendments Nos. 96 and 97: Corrects the language of the appropriations for Alaska so as to make the same for the "Territory" instead of the "District" of Alaska; strikes out the provision for rent of offices and quarters; and provides for repairs and preservation of executive mansion.

On amendment No. 98: Appropriates \$42,260 for legislative expenses for Alaska, instead of \$45,200, as proposed by the Senate.

On amendments Nos. 99 and 100: Strikes out the appropriation of \$500 for traveling expenses for the governor of Hawaii.

On amendments Nos. 101 and 102: Appropriates for the assistant and chief clerk of the War Department, at \$4,000.

On amendments Nos. 103, 104, 105, and 106: Increases the salary of the chief clerk in the office of the Surgeon General of the War Department from \$2,000 to \$2,250 and strikes out the provision for two clerks at \$1,600 each instead of at \$1,400 each in that office.

On amendments Nos. 107 and 108: Increases the salary of the chief clerk in the office of the Chief of Engineers from \$2,000 to \$2,250.

On amendments Nos. 109, 110, 111, and 112: Provides for four additional clerks at \$1,600 and one additional clerk at \$1,400 instead of five clerks at \$1,200 in the office of the Bureau of Insular Affairs.

On amendments Nos. 113, 114, 115, and 116: Increases the pay of 40 watchmen in the parks in Washington from \$720 to \$840 each.

On amendments Nos. 117, 118, and 119: Strikes out the provision proposed by the Senate for a clerk at \$1,400 instead of one at \$1,200 in the office of the Secretary of the Navy.

On amendments Nos. 120 and 121: Provides for one clerk at \$1,000 instead of one at \$1,400 in the Office of Naval Intelligence.

On amendments Nos. 122, 123, 124, 125, 126, 127, and 128, relating to the Hydrographic Office: Appropriates for a chief clerk at \$1,800 instead of a nautical expert at \$1,600; strikes out the provision for books of reference; appropriates \$11,000 as proposed by the House, instead of \$14,000 as proposed by the Senate, for contingent expenses of branch offices; appropriates \$17,960 as proposed by the House, instead of \$22,000 as proposed by the Senate, for necessary employees at branch offices; and strikes out the provision, proposed by the Senate, prohibiting the removal of the Hydrographic Office to the buildings and grounds of the Naval Observatory.

On amendments Nos. 129, 130, 131, and 132, relating to the Naval Observatory: Increases the salary of an assistant astronomer from \$1,800 to \$2,000 and one assistant from \$1,000 to \$1,200; and strikes out the authority for purchase of books of reference.

On amendment No. 133: Strikes out the provision, proposed by the Senate, authorizing the appointment of an assistant in the Nautical Almanac Office to act as director thereof.

On amendments Nos. 134 and 135: Provides for an additional clerk at \$1,400 in the Bureau of Medicine and Surgery.

On amendments Nos. 136, 137, and 138: Strikes out the appropriation of \$24,500 for the rent of the Mills Building for the Navy Department; appropriates \$30,000 for rent of quarters for the Navy Department for the fiscal year 1914, and \$1,375 for the remainder of the fiscal year 1913.

On amendments Nos. 140, 141, and 142: Increases the salary of the chief disbursing clerk of the Interior Department from \$2,250 to \$2,500 instead of \$2,750, as proposed by the Senate; and strikes out the provision for an additional clerk at \$1,900 in the office of the Secretary of the Interior.

On amendments Nos. 143, 144, 145, and 146: Increases the salary of the chief clerk of the General Land Office from \$2,750 to \$3,000; and provides for a chief of division of surveys at \$2,750 instead of a chief of division at \$2,400.

On amendments Nos. 157, 158, and 159: Strikes out the provision for a chief of finance division at \$2,250 instead of a chief



of division at \$2,000, proposed by the Senate, in the Pension Office.

On amendments Nos. 164 and 165: Appropriates \$1,500, as proposed by the Senate, for traveling expenses of the Commissioner and employees of the Bureau of Education, and \$2,500, as proposed by the Senate, instead of \$2,400 proposed by the House, for purchase, distribution, and exchange of educational documents.

On amendments Nos. 166, 167, 168, and 169, relating to the office of the Superintendent of the Capitol: Provides for two clerks at \$1,200 each instead of one clerk at \$1,600 and one at \$1,000, and for a bookkeeper and accountant at \$2,200 instead of \$1,800, and strikes out a stenographer at \$720.

On amendments Nos. 170, 171, 172, 173, 174, and 175: Appropriates \$37,400, as proposed by the Senate, instead of \$32,900, as proposed by the House, for rent for the Geological Survey, and \$12,000, as proposed by the Senate, instead of \$10,000, as proposed by the House, for rent for the Bureau of Mines; appropriates \$2,000 for the removal of the Bureau of Mines to other quarters; and strikes out the appropriation of \$3,333.34 additional for rent for the Bureau of Mines during the balance of the fiscal year 1913.

On amendment No. 176: Makes the appropriation for surveyor general of the "Territory" of Alaska instead of the "District" of Alaska.

On amendments Nos. 197, 198, and 199: Strikes out the proposed increase in the salary of the disbursing clerk of the Post Office Department from \$2,250 to \$2,500 and of the assistant to the chief clerk of that department from \$2,000 to \$2,250.

On amendments Nos. 200, 201, 202, 203, 204, 205, 206, and 207, relating to the contingent expenses of the Post Office Department: Appropriates \$30,000, instead of \$20,000 as proposed by the House and \$40,000 as proposed by the Senate, for stationery; appropriates \$36,000, instead of \$35,000 as proposed by the House and \$40,000 as proposed by the Senate, for fuel and repairs to heating plant; appropriates \$4,000 as proposed by the House, instead of \$5,000 as proposed by the Senate, for telegraphing; appropriates \$25,000, instead of \$20,000 as proposed by the House and \$35,000 as proposed by the Senate, for miscellaneous items; appropriates \$7,000, instead of \$5,000 as proposed by the House and \$8,000 as proposed by the Senate, for furniture; appropriates \$3,000 as proposed by the House, instead of \$4,000 as proposed by the Senate, for rent; appropriates \$24,000 as proposed by the House, instead of \$25,000 as proposed by the Senate, for the Official Postal Guide; and inserts the provision, proposed by the Senate, authorizing reimbursement of the Treasury Department for expenses of preparation, issue, and registration of bonds for the Postal Savings System.

On amendments Nos. 208, 209, 210, 211, 212, 213, 214, 215, and 216: Rearranges and makes certain transfers in the clerical force of the Department of Justice without increasing the number or compensation thereof.

On amendment No. 217: Inserts the provision proposed by the Senate removing the limitation placed upon the number of temporary clerks to be employed in the Census Office during the fiscal year 1913 without increasing the amount appropriated for such clerks.

On amendment No. 218: Appropriates \$10,000 as proposed by the House, instead of \$20,000 as proposed by the Senate, for experimental work in developing tabulating machines in the Census Office.

On amendments Nos. 219, 220, and 221: Strikes out the provision for shipping commissioners at Honolulu and Mobile at \$1,200 each, proposed by the Senate, and appropriates \$3,000 as proposed by the House, instead of \$3,500 as proposed by the Senate, for admeasurement of vessels.

On amendments Nos. 222, 223, 224, 225, and 226, relating to the Bureau of Immigration and Naturalization: Provides for the following additional clerks—one at \$1,600, one at \$1,400, one at \$1,200, and one at \$1,000.

On amendments Nos. 227, 228, and 229, relating to the Bureau of Standards: Increases the salary of the Librarian from \$1,400 to \$1,600, and provides for a glassworker at \$1,400 instead of a glass blower at that salary.

On amendment No. 230: Makes the appropriation of \$25,000 for equipment of the new laboratory building of the Bureau of Standards immediately available.

On amendments Nos. 231, 232, and 233: Transfers \$2,000 from the appropriation "Enforcement of wireless communication laws" to be expended under the "Contingent expenses," Department of Commerce and Labor.

On amendment No. 234: Inserts the provision, proposed by the Senate, to credit the accounts of a former disbursing clerk of the Department of Commerce and Labor with the sum of \$99.63.

On amendments Nos. 236, 237, 238, 239, and 240, relating to the Court of Claims: Strikes out the increase in the salary of the bailiff from \$1,500 to \$1,800; provides for a clerk at \$1,400 instead of at \$1,200; and appropriates \$7,000 instead of \$6,000, as proposed by the House and \$8,000 as proposed by the Senate, for auditors and additional stenographers.

On amendments Nos. 241 and 242: Strikes out the section, proposed by the Senate, waiving the operation of section 8 of the District of Columbia appropriation act for the fiscal year 1913, with relation to expenses of officers and employees of the Government at meetings of conventions and associations during the fiscal year 1914, and corrects the numbering of a section of the bill.

The committee of conference have been unable to agree on amendments of the Senate as follows:

On amendment No. 2: Inserting the name of Woodbury Pulsifer as an employee of the Senate.

On amendments Nos. 7, 8, and 11: Increasing the salaries of two assistant doorkeepers of the Senate from \$2,592 to \$3,000 each.

On amendments Nos. 23, 24, 25, and 26: Relating to the Capitol police.

On amendment No. 27: Inserting the name of George H. Carter as clerk to the Joint Committee on Printing.

On amendment No. 37: Authorizing payment to Etta J. Giffin, assistant in charge of the division for the blind in the Library of Congress.

On amendments Nos. 38 and 39: Providing for an additional clerk at \$1,800 in the Copyright Office.

On amendment No. 61: Appropriating \$25,000 instead of \$10,000 for freight on bullion and coin.

On amendment No. 68: Increasing the number of internal-revenue collectors from 63 to 67.

On amendments Nos. 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 93, 94, 95, relating to mints and assay offices.

On amendment No. 139: Appropriating \$5,000 for a national aerodynamical laboratory commission.

On amendments Nos. 147, 148, 149, 150, 151, 152, 153, 154, 155, and 156: Increasing the clerical force of the Indian Office.

On amendments Nos. 160, 161, 162, and 163: Relating to the Patent Office.

On amendments Nos. 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, and 196: Relating to the offices of surveyors general and their clerks.

On amendment No. 235: Appropriating for the Commerce Court for the remainder of the fiscal year 1913.

J. T. JOHNSON,

A. S. BURLESON,

*Managers on the part of the House.*

Mr. JOHNSON of South Carolina. Mr. Speaker, I move the adoption of the conference report.

Mr. GARNER. Will the gentleman permit an interruption at this point?

Mr. JOHNSON of South Carolina. Certainly.

Mr. GARNER. I notice from the statement that the House recedes from its disagreement to certain amendments of the Senate. Does that mean that the House has agreed to increase the number of clerks in the Senate and to increase their salaries without reference to an investigation as to their necessity? In other words, does the House leave it entirely to the Senate to control their own force?

Mr. JOHNSON of South Carolina. I do not think the items that the gentleman refers to have all been agreed to. Possibly one or two have. I will say that we made some inquiry of the Senators as to why these increases should be made, and we were not entirely without information on that subject.

Mr. GARNER. The point I want to inquire about is whether or not the House Committee on Appropriations have come to the conclusion that it is in the interest of public policy and harmony between the two Houses to permit each House to control its own clerical force and to fix the salaries of the same? I think we are entitled to know whether or not the committee has come to the conclusion that they will permit each branch of Congress to control the number of its employees and the money to be paid to each of those employees.

Mr. JOHNSON of South Carolina. The Senate have always insisted that they have the right to fix the number of their own employees and their compensation. This Committee on Appropriations have never yielded to that proposition in theory, although, as a matter of fact, we have been compelled to yield to their amendments carrying it into effect.

Mr. GARNER. As a matter of fact, in this bill there is but one exception, if I get it correctly, and that is to the amend-

ment numbered 78, increasing the salaries of two assistant doorkeepers of the Senate from \$2,592 to \$3,000 each.

Mr. JOHNSON of South Carolina. I call the gentleman's attention to the fact that there were very few increases in the Senate.

Mr. Speaker, I move the adoption of the conference report.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House further insist on its disagreement to the amendment of the Senate and agree to the further conference asked for by the Senate.

The SPEAKER. The gentleman from South Carolina moves that the House further insist on its disagreement to the amendment and agree to the further conference asked for by the Senate.

Mr. BROUSSARD. Mr. Speaker, I move that the House recede and concur in Senate amendment 235.

The SPEAKER. The gentleman from Louisiana moves that the House recede from its disagreement to Senate amendment 235 in reference to the Commerce Court and concur in the same. The Clerk will report the Senate amendment.

The Clerk read as follows:

(235) Commerce Court: For the Commerce Court, from March 5 to June 30, 1913, both dates inclusive, namely: Clerk, at the rate of \$4,000 per annum; deputy clerk, at the rate of \$2,500 per annum; marshal, at the rate of \$3,000 per annum; deputy marshal, at the rate of \$2,500 per annum; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the Commerce Court; for books, periodicals, stationery, printing, and binding; for pay of bailiffs and all other necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, \$16,111.11; in all, \$19,977.78, to be immediately available.

Mr. JOHNSON of South Carolina. How much time does the gentleman from Louisiana want?

Mr. BROUSSARD. Ten minutes.

Mr. JOHNSON of South Carolina. I will yield 10 minutes to the gentleman from Louisiana.

Mr. BROUSSARD. Mr. Speaker, in the controversy in the last session of Congress regarding the abolition of the Commerce Court provision was made for that court to continue its operations until the 4th of next March. After the 4th of March no provision was made for the balance of the fiscal year. As we know, the attempt to abolish the court failed. In the meanwhile a great number of cases have gone to the Commerce Court and are now being argued, and by the 4th of March there will be no funds with which the court can continue and determine these cases. There is no other court to which these litigants may go. I had in mind quite a number of cases from my own State, known as the Tap Line cases, decided by the Interstate Commerce Commission, where suit was brought in the Commerce Court by virtue of a decision of the Supreme Court in the Proctor-Gamble case, which were dismissed by the court.

The commission felt that the people interested in the Tap Line cases and the people shipping upon these lines were entitled to have the question of law involved decided by the court and the case reopened.

They have issued an affirmative order, according to the interpretation placed upon it by the commission, and only day before yesterday the attorney of the State railroad commission of Louisiana was arguing the question before the Commerce Court. Unless provision is made whereby the rent of the building where the court is being held and the salaries of the court officials are provided at this session, on the 4th of March the litigants in these cases will find themselves suspended in the air, because there is no provision to have the court determine them.

The jurisdiction is now in that court, and Congress has not placed the jurisdiction elsewhere, as it intended to do, in the appropriation bill in the last Congress. So these litigants—40 or 50 from my own State—have cases before that court involving at least, I am told by the attorney for the State railroad commission, \$2,500,000 a year. If no provision is made for the court—and it is a matter of indifference whether gentlemen are for the continuance of the court or not—it is simply a question of securing some court wherein the litigants and the large interests, such as are involved in the Tap Line cases and other orders issued by the Interstate Commerce Commission, may be determined until Congress decides whether to abolish the court and transfer jurisdiction to some other court. I believe this provision ought to be agreed to. I merely wanted to make that statement, because I do not believe that this House is prepared to say that litigants of such vast rights as are involved in the decisions of the Interstate Commerce Commission shall lose their rights simply because Congress will not provide the money to enable them to have a decision of the court that has jurisdiction of the subject matter.

Mr. MANN. Will the gentleman from South Carolina yield me some time?

Mr. JOHNSON of South Carolina. How much time does the gentleman want?

Mr. MANN. Five or ten minutes.

Mr. JOHNSON of South Carolina. I yield to the gentleman from Illinois 10 minutes.

Mr. MANN. Mr. Speaker, I do not know whether the House conferees refused to agree to this amendment because they thought the item did not belong to this bill, but more properly belonged to the deficiency bill, or whether they declined to agree to the item on its merits. But this situation will arise if no provision is made for the Commerce Court. The judges, of course, are provided for otherwise, but the court can not continue to exist and do business without the aid of the officials under the court. Under the so-called Mann-Elkins law we abolished the jurisdiction of all the other United States courts in this class of cases and conferred jurisdiction upon the Commerce Court. If no appropriation is made by which that court can do business after the 4th of March, we will be put in the situation where we do not even permit the court to decide the cases which are now pending before it, in many of which injunction orders have been issued restraining the decision of the Commerce Commission; and, in addition, as the Interstate Commerce Commission makes additional orders, there will be no court authorized to issue restraining orders, and there will be presented to us the following situation: Can Congress decline or refuse to give any court jurisdiction where the complainant insists that orders issued by the Interstate Commerce Commission are confiscatory? In my judgment, if Congress attempts to say that by a legislative commission it fixes a railroad rate which may be confiscatory and then says that no court shall have jurisdiction to determine whether the order is confiscatory, the courts under their judicial authority under the Constitution will take jurisdiction, and all the legislation that we have been attempting to build up for years to confine this jurisdiction to certain classes of cases, the courts will be compelled to wipe out. It is not desirable to do that. If it is the intention of the majority—and I take it that is their intention—to abolish the Commerce Court after the 4th of March, in doing so they will confer the jurisdiction now held by the Commerce Court upon the other courts. A method is then provided for deciding these cases; but if we say that the district courts shall not have jurisdiction, as we now say, and then declare that the Commerce Court shall not exist, we enter upon a practice of endeavoring to confiscate property, and under the judicial authority of the courts under the Constitution, in my judgment, they will hold that they have general jurisdiction.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. BARTLETT. We do not say that the court shall not exist, but we do not provide the means with which the court may go on with its business.

Mr. MANN. That is the same thing. We do not say the court shall not exist.

Mr. BARTLETT. If we said the court should not exist, it would then become our duty to transfer the business to some court that could dispose of it.

Mr. MANN. We practically say the court can not do business because the court can not operate without a clerk and without the employees of the court, in my judgment. I do not see how they can transact business. I do not wish to see put up to the district courts the question of the necessity of deciding whether Congress can direct the jurisdiction in these cases or whether it can abolish the jurisdiction. As long as we do not seek to abolish the authority of the courts to review these decisions, as confiscatory, I think the courts will follow the directions we give as to what courts may exercise that jurisdiction, but when we seek to practically abolish all authority of the courts, it is my judgment that they will be compelled to take jurisdiction.

Mr. JOHNSON of South Carolina. Mr. Speaker, I yield five minutes to the gentleman from Missouri [Mr. BORLAND].

Mr. BORLAND. Mr. Speaker, I have been in favor and am now in favor of abolishing the Commerce Court, but in doing so it was the evident intention of this branch of Congress, at least, to vest that jurisdiction in another proper tribunal. Having taken it away from the district courts and vested it in the Commerce Court, it was clearly the intention of Congress to re-vest the jurisdiction in the district courts as a condition of abolishing the Commerce Court. That plan of abolishing the Commerce Court met with a presidential veto, and one appropriation bill carries the salaries of the judges of that court up to the close of the present fiscal year. But, as I understand it, there is no provision made, unless it be made in the bill under consideration, for the machinery of the court, the



rent of the building in which the court sits and the salary of the clerk and the incidental expenses of the court. I have no desire to continue the Commerce Court beyond the time that Congress desires to have it continued—the 30th of June, 1913—but it is clearly necessary that we provide properly for the vesting of the jurisdiction in pending cases in the proper tribunal as a continuous right and remedy for the shipper, the litigant. The only class of cases in which I feel any personal interest is the class of cases that have recently gone there at the instance of shippers who are operating tap lines or other facility railroads, and who are contesting against the trunk-line railroads that very question. There has been some question before the Interstate Commerce Commission as to whether the form of the order permitted the shipper to have any court review at all. The commission changed its view about that very radically, and changed the character of its order so that the shippers could have a review equal with the railroads on the questions of whether these tap lines were plant facilities or whether they were common carriers. That question is now pending before the Commerce Court.

Mr. BROUSSARD. And some of these cases are now being argued.

Mr. BORLAND. Some of the cases are being argued. It is highly desirable that the question should be decided, because the Commerce Commission itself conceded the widespread importance of that question. It affects the entire business public of the Southwest.

Mr. GARNER. Will the gentleman yield for a question?

Mr. BORLAND. Yes; if I have the time.

Mr. GARNER. If it is desirable to abolish the Commerce Court, when will you ever find a time to abolish it when it will not have some cases before it and the same argument can be made?

Mr. BORLAND. I realize that it would be an incidental hardship in abolishing the court, but the gentleman from Texas must also realize that endeavoring to take away the machinery of the court without revesting the jurisdiction of it in pending cases in any proper tribunal is about as harsh a way as can possibly be adopted.

Mr. GARNER. And the gentleman from Texas also knows that as long as the present occupant of the White House remains there it is impossible to abolish this court, but after the 4th of March legislation possibly can be had abolishing this court and revesting its jurisdiction in the district courts. Then, why carry this item over until the 1st of July?

Mr. BORLAND. That is the very argument in favor of carrying it over during the balance of this current year in order that the jurisdiction itself will not fail while this change is being made, which is clearly the intent of Congress.

Mr. SIMS. Will the gentleman permit a question?

Mr. BORLAND. Yes.

Mr. SIMS. The gentleman speaks of shippers bringing suits in the Commerce Court. I think the gentleman is not exactly accurate in his statement in this: The tap-line railroads that have brought suits base them upon the theory that they are common carriers and entitled to share in the through rates of trunk-line roads, and therefore subject to the orders of the commission. The commission has never yet made an order against any shipper requiring him to do anything or to cease doing something that he was doing. The commission's orders can only be made against common carriers, and the contention that these shippers, as the gentleman calls them, these tap-line railroads, maintain in the court is based upon the theory that they are common carriers and not shippers.

Mr. BROUSSARD. They hold these tap lines to be common carriers, which tap lines are shippers to trunk-line railroads—

Mr. SIMS. I want to say to the gentleman that the shipper can not go into this court or any other and complain of the unconstitutionality or lack of power of the commission to make an order, as no affirmative order can be made against a shipper.

Mr. BORLAND. I would like to answer the question of the gentleman from Tennessee in full, but I do not regard this as the proper time to attempt a debate on that subject.

Mr. SIMS. The gentleman continues speaking of shippers going into the Commerce Court to complain of orders of the Interstate Commerce Commission, when the court has no jurisdiction of such suits by shippers.

Mr. BORLAND. The fact is these people are in court.

Mr. SIMS. Who is in court?

Mr. BORLAND. These lumber companies who own tap lines.

Mr. SIMS. Are they not there as railroads claiming to be common carriers?

Mr. BORLAND. But they are not trunk lines.

Mr. SIMS. They claim to be common carriers.

Mr. BORLAND. This is a legal question which has disturbed the commission, disturbed the gentleman's committee, and has disturbed everybody who has undertaken to solve it. It is a very important legal question. Now, I hope that the Commerce Court will be continued with its machinery until we can properly vest its jurisdiction in another proper tribunal, so that this question now before the court, which affects the interests of large sections of the southwestern country, may be decided.

Mr. JOHNSON of South Carolina. Mr. Speaker, I think I can make this whole matter very clear in a few words. We have appropriated a sufficient amount of money to provide for the Commerce Court until March 4, 1913. The bill now before the House provides for the fiscal year beginning July 1, 1913. The Senate has placed upon this bill what is evidently a deficiency appropriation. The proper place for the item now under discussion is in the deficiency bill. I do not hesitate to say to the Members of this House that we intend to provide the necessary money to operate the Commerce Court until it can be legally abolished and the cases pending in that court transferred to some other jurisdiction, but we do not want the House to vote in this amendment. We may want to put some limitation upon it as to how long they can make contracts for quarters, or we may want to put the language in there that they have so much money as is necessary to carry on the Commerce Court until otherwise provided by law. This is not the bill on which and this is not the language in which to provide for the Commerce Court. I hope that the motion of the gentleman will be voted down.

Mr. BARTLETT. Will the gentleman yield me a minute or two?

Mr. JOHNSON of South Carolina. Certainly.

Mr. MARTIN of South Dakota. I desire to question the gentleman—

Mr. BARTLETT. I have the floor just now, Mr. Speaker.

The SPEAKER. How much time does the gentleman from South Carolina yield to the gentleman from Georgia?

Mr. JOHNSON of South Carolina. Five minutes.

Mr. BARTLETT. Mr. Speaker, I am in favor of the abolition of the Commerce Court. I voted against its establishment. By a very narrow margin in this House it was established. I voted in the committee and I voted in the House for its abolishment. I said if I got an opportunity to effectively abolish this court I would vote to abolish it. I am one of those who believe, Mr. Speaker, that we can constitutionally not only abolish the court, but provide that the judges who hold their office by reason of the act establishing the Commerce Court can, by the same power that created the office, be retired and the office be abolished.

That is not the question to be discussed here, however. By reason of an Executive veto we have not been able to carry out this reform that we ought to be able to accomplish. We are therefore compelled, in my judgment, to at sometime provide for the necessary funds to carry on this court until the time at which it shall be abolished. I agree thoroughly with the gentleman from South Carolina [Mr. JOHNSON] that this is not the bill nor the place in which to make the provision for the necessary expenses of this court. Therefore, while I shall upon the proper occasion, feeling it my duty to do so, vote for the necessary funds to carry on the business of this court until it can be legally and properly abolished, I shall not vote for the motion of my friend from Louisiana [Mr. BROUSSARD] on this bill to concur in this amendment, because in my opinion it has no place on this bill, but ought to be provided for in the deficiency bill. And I have no question, Mr. Speaker, but that the Committee on Appropriations, when they report the deficiency bill, will make the necessary provision for carrying on the business of this court until it shall be legally abolished.

Mr. BROUSSARD. Does the gentleman from Georgia know whether there will be a deficiency bill at this session of Congress?

Mr. BARTLETT. Oh, yes; I know there will be one, and I am afraid it will be a pretty considerable one in amount. I know that it will be. For instance, we have an item of \$15,000,000 to provide for the deficiency created by the pension bill that was approved on the 11th day of May, 1912. I know that is one item that we are compelled to provide for—a deficiency growing out of the administration of the pension law under that act—and something else, too.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Louisiana [Mr. BROUSSARD] to recede from the disagreement to the Senate amendment on the Commerce Court and concur in the same.

The question was taken, and the Speaker announced that the yeas seemed to have it.

Mr. BROUSSARD. Division, Mr. Speaker.

The House divided; and there were—ayes 14, noes 63.

So the motion was rejected.

The SPEAKER. The question is—

Mr. BURKE of South Dakota. Mr. Speaker, before the question is put will the gentleman from South Carolina [Mr. JOHNSON] yield to me just for a moment to call his attention to an item in this report?

Mr. JOHNSON of South Carolina. How much time will the gentleman require?

Mr. BURKE of South Dakota. Just a moment or two.

Mr. JOHNSON of South Carolina. I yield to the gentleman a minute.

Mr. BURKE of South Dakota. I want to call the gentleman's attention to what was said when this conference was up in the Senate with reference to an amendment by the chairman of the Appropriations Committee of the Senate, who said:

There is a disagreement of about \$18,000 in regard to clerks for the Indian Office, which the Senate seeks to provide for the examination of titles and distribution of amounts due to the heirs of deceased Indians. It is part of the Indian service which the department says is necessary.

I want to call the gentleman's attention and the attention of the House to how appropriations are sought here before different committees of Congress. This item, or a similar one, was estimated for and presented to the Committee on Indian Affairs when the Indian appropriation bill was being considered, and it was not allowed on the theory that the Committee on Indian Affairs had no jurisdiction to make appropriations for clerical help in the Indian Bureau here in the city of Washington.

The Indian appropriation bill was reported to the Senate yesterday, and contains an item of \$10,000 for clerk hire in the Indian Bureau for this particular purpose, and for which they have also provided an appropriation so far as they could upon the legislative bill. My purpose in mentioning it is to bring it to the attention of the gentleman in charge of the legislative bill that an effort is being made to obtain this appropriation through another appropriation bill, and for the purpose of demonstrating how the departments resort to different committees of Congress when they are unable to get an appropriation through the committee having jurisdiction of a particular item.

Mr. JOHNSON of South Carolina. I yield to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, the gentleman from South Dakota [Mr. BURKE] has called attention to an incident that is not uncommon, and that will necessitate in the very near future the adoption of what I believe to be an imperative reform in order to eliminate existing abuses. It is the common practice of the different departments of the Government, and it is not at all unusual for Members of Congress, to seek from various committees appropriations for different matters, and in the event of failure in the different places to which they apply in the House, to urge the Senate to place the items upon the bill in the conference on which the House will be represented by conferees, who, because of peculiar local conditions, are likely to be favorable to the item.

The result is that the House does not have the representation in these matters to which it is entitled. I might refer to what happened last year. It is one of many such incidents. For many years a request had been pending to appropriate money as a part of the cost of a sewer through an alleged national park in the State of Oklahoma. After it had been refused at least five years in the Committee on Appropriations on the sundry civil bill, where it properly belonged, it came back to the House from the Senate on the Indian appropriation bill, and the item was agreed to by the House conferees.

I have given considerable attention to the situation relative to the appropriations and to the remedies that must be applied, and I am convinced, Mr. Speaker, that, whether it comes in the near future or some time in the distant future, eventually this House will be compelled to concentrate all of its supply bills in one committee of the House. [Applause.]

The result will be that there will be an atmosphere about these appropriations not friendly to some particular department of the Government, but an atmosphere in which there will appear a determination to serve and to distribute the public funds to those departments of the Government most imperatively requiring public money. It will require the complete elimination of general legislation from the annual supply bills and their retention as such and nothing else. I have heard several schemes suggested and several different methods outlined. I have attempted to seek some means to stop what is becoming not only one of the great worries of Members of Congress, but what will shortly be one of the great burdens of the country, and that is the rapid rate at which the public expendi-

tures increase. While some other scheme may be tried, I am of the opinion, as the result of my investigations of the situation in the past and of a study and careful consideration of the different remedies proposed, that the logic of the situation requires one thing to be done, and that is to put the supply bills in the control of one committee. They will then become, as they should be, the vehicles of supplies for the Government and not the refuge of those who seek Government aid for purposes not properly within the functions of the Federal Government.

The SPEAKER. The time of the gentleman has expired.

Mr. BURKE of South Dakota. Mr. Speaker, I ask that the gentleman's time be extended one minute. I want to ask him a question.

The SPEAKER. Does the gentleman from South Carolina yield one minute to the gentleman?

Mr. JOHNSON of South Carolina. Yes; I yield one minute to the gentleman.

Mr. BURKE of South Dakota. The gentleman from New York [Mr. FITZGERALD] called attention to an item in the Indian appropriation bill that was put on the Indian appropriation bill last year at the other end of the Capitol which did not belong properly on that bill, and he referred also to the fact the item was agreed to in conference. I want to say to the House that I was a member of that conference committee, and that I refused to agree to the conference report, and did not sign it because of that item and one or two other similar items as to which there was no conference, for the reason that the majority of the House conferees yielded without even discussing them.

Mr. FITZGERALD. I was not criticizing the gentleman from South Dakota.

Mr. BURKE of South Dakota. I agree with the gentleman from New York that we ought to find some means of disposing of amendments appropriating money that come back here on bills to which they do not belong, where the committee in charge of the bill does not have jurisdiction to report on such amendments.

Mr. FITZGERALD. What I was referring to was the fact that it was the common and usual thing for people demanding appropriations to seek out the particular organization of one House or the other friendly to a particular project in order that it may overcome or escape the opposition that may exist to it, and to have it placed where there is no opportunity to have a fair test upon it. Some time in the future I shall discuss the question more elaborately, but this seemed an opportune time to emphasize the matter.

The SPEAKER. The time of the gentleman has again expired.

Mr. CANNON rose.

Mr. JOHNSON of South Carolina. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Speaker, I have listened to the remarks of the gentleman from New York [Mr. FITZGERALD] with very great interest, and I indorse all that he says. I want to go a little further and say that away back in 1885, as I recollect it, for purposes arising out of factional trouble on the Democratic side, a great mistake was made. Some gentlemen may recollect the factional trouble to which I refer. It was a trouble between individuals and their followings, and the effort was made to divide the appropriation bills for the purpose—and for that purpose alone—of making one Member of Congress less powerful. We have had the result when you divide the responsibility touching kindred matters amongst six or seven committees in the House and in the Senate, all of them having jurisdiction of supply bills, you beget improvidence.

I recollect that while I had the honor at that time to serve upon the Committee on Appropriations an incident occurred that well illustrates the point, an incident in relation to a distinguished Senator, a very estimable man, who was a live wire. I will not mention his name. He is now in the beyond.

The matter came on one of the appropriation bills, and after full discussion was rejected. The Senator was a live wire and put the matter on another general appropriation bill by a Senate amendment, which was again rejected in the House; but it popped up on a third bill, and in the closing days of the session it passed. I want to say that what we need is not only full responsibility to that side or this side, but whichever side is responsible, we want full responsibility for the majority, and you can not get it under the present rules of this House, dating away back to 1888. And I want to say now, and I measure my words when I say it, that I have no doubt when the grand aggregate of the appropriation bills is made up for the coming fiscal year they will carry, not for the benefit of the public service, \$100,000,000 more than is necessary for the public service, which amount has gradually grown up



under the legislative policy concerning these supply bills. [Applause.]

Mr. SHERLEY. Mr. Speaker, I do not desire to anticipate what I propose to say at some length very shortly, touching a budget system for Congress, but I do not want to let go without a word what has been said on the floor touching the matter.

I believe that it is physically impossible for one Appropriations Committee to do the work of this House relative to expenditures, and the fact that the Senate may very nearly do it through one committee proves nothing, because the Senate never has done the initial work in regard to the consideration of estimates that this House does.

I want to suggest one other thought to you, and that is that part of your evil comes not so much from the divided responsibility—though that is a great evil and ought to be remedied—as from the fact that you never consider totals until you start to add up what you have already appropriated. And no man can run his business and no Government can run the country's business without having a program laid out in advance, and not simply to find out the route they have traveled after they have traveled it. Whether it comes from one committee or whether it comes from half a dozen committees, the trouble now is that there is no consideration by the House or the country of the whole scheme of appropriations and of totals. What we need in America is a debate which will focus public attention upon the total of expenditures. [Applause.] You are never going to interest the American people in the details of appropriations; but if, through the party charged with responsibility, you can bring in on this floor a program whereby it is proposed to expend in the aggregate certain sums to be distributed in certain proportions, the majority party defending and the minority attacking, you invite the attention of the people of America to a great, broad program touching expenditures of public money; but whenever your discussion consists simply of sharpshooting at particular items in a particular bill, you are not going to get that attention which brings about a reform.

As I have stated, if the House will give me the opportunity, I propose before the session is over to submit somewhat in detail a program that I think will bring about a reform. [Applause.]

Mr. MANN. Will the gentleman from South Carolina [Mr. JOHNSON] yield two or three minutes to me?

Mr. JOHNSON of South Carolina. I yield to the gentleman from Illinois three minutes, and then I hope we may have a vote.

Mr. MANN. Mr. Chairman, I am not at all certain that the country is more interested in the total of appropriations than it is in special items. My observation is that the country can easily get worked up over an appropriation that may amount to \$10,000 or \$100,000 and club Members of Congress with requests and petitions and protests concerning it when they have no special interest in the question whether the total appropriations are \$1,000,000,000 or \$1,100,000,000; and I question very much whether any system will work to keep the appropriations down as long as Members of Congress in the main consider it their business to secure appropriations for special purposes instead of preventing appropriations which they often know ought not to be granted.

Of course, the suggestion that the matter ought to be turned over to one committee has been before the House for many years, and yet we all know that even in the Committee on Appropriations the different appropriation bills which come from that committee are made up by subcommittees, and sometimes even members of the Committee on Appropriations, seeking to secure appropriations, endeavor to put items on one bill instead of on another bill, because they have greater influence in the framing of one bill than another. In the main the Committee on Appropriations act pro forma, so far as the entire committee are concerned, in reporting the appropriation bills, and they are divided into subcommittees which do the work. The Members of this House ought not to think that they can avoid their own individual responsibility in regard to appropriations by assuming that some other system or somebody else will keep down the totals.

Mr. JOHNSON of South Carolina. Mr. Speaker, the suggestion of the gentleman from South Dakota which brought about this very interesting discussion makes it necessary for me to make a statement to the House. When we made up the legislative bill for 1913, upon examining the authorities from the Indian Bureau we found that they had a lump-sum appropriation of \$80,000 for clerical services in the District of Columbia.

This legislative bill is intended to provide for all the clerical services needed within the District of Columbia. We inserted in that bill a provision that for the year 1914 and thereafter they should estimate for the number of people needed in order to carry on the work. We were endeavoring to break up the prac-

tice of lump-sum appropriations by committees whose duties did not require them to investigate the wants of the departments in Washington for clerical help.

In accordance with the provision inserted in that bill they came before Congress this year with their estimates for the clerks who had hitherto been paid out of the lump-sum appropriations. In spite of the fact that they had been served with notice in the legislative bill for the current year that we were opposed to their going to the Committee on Indian Affairs for a lump sum, they went before that committee and asked for a lump sum of \$10,000 for clerical service in the Indian Office in this city. They failed to get it. The gentleman from South Dakota informed the House this morning that the Indian bill has been reported to the Senate containing that amendment. The Committee on Appropriations can not keep up with all the bills, but the Members of the House should examine with care any bill, whether reported by the Rivers and Harbors Committee, the Post Office Committee, the Committee on Indian Affairs, or any other committee which provides for clerical services in the District of Columbia, because the probability is that the committee having jurisdiction of that question has investigated it and refused the request, and then a committee not having jurisdiction and not having sufficient information granted it. Mr. Speaker, I call for a vote.

The SPEAKER. The question is on the motion of the gentleman from South Carolina that the House further insist on its disagreement to the Senate amendments and agree to the conference.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. JOHNSON of South Carolina, Mr. BURLISON, and Mr. GILLET.

#### DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. FLOOD of Virginia. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 28607) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1914. And pending that, Mr. Speaker, I ask unanimous consent that general debate be limited to two hours, one hour to be controlled by the gentleman from Illinois [Mr. McKINLEY] and one hour by myself.

The SPEAKER. The gentleman from Virginia moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the diplomatic and consular appropriation bill, and pending that he asks unanimous consent that general debate be limited to two hours, one hour to be controlled by the gentleman from Illinois [Mr. McKINLEY] and the other hour by himself. Is there objection?

Mr. EDWARDS. Mr. Speaker, reserving the right to object, is it not possible to reduce the time for general debate to one hour, 30 minutes on a side.

Mr. FLOOD of Virginia. Not by unanimous consent. I have conferred with the gentleman from Illinois [Mr. McKINLEY], and he wants an hour on that side. I do not know whether we will want an hour on this side or not; I doubt it.

Mr. EDWARDS. I shall not object, Mr. Speaker, but I would like to see the time allotted for general debate reduced.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The motion of Mr. Flood of Virginia was then agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. RUCKER of Missouri in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28607, the diplomatic and consular appropriation bill, and the Clerk will report it.

Mr. FLOOD of Virginia. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. FLOOD of Virginia. Mr. Chairman, I know it is the purpose of the gentleman from Illinois to yield to the gentleman from Pennsylvania.

Mr. Chairman, this bill needs but little explanation. It was framed along fair and economical lines.

Our people take a deep interest in the Diplomatic and Consular Service. There is no other branch of the Government that is doing so much effective work on so small an appropriation.

The value of the foreign service to the Government, to American commerce, and to the individual citizen is recognized all over the country, and there is a desire everywhere that this service should be properly maintained. With that end in view

and mindful of the necessity of an economical administration of every branch of the Government the pending bill was framed by the Committee on Foreign Affairs.

In the preparation of the bill which contains the appropriations for the current year cuts were made wherever it was possible, and some items were left out with the understanding that they would be taken up this year; but notwithstanding these facts this bill carries only about \$180,000 more than the appropriations for the current year, an increase of about 5 per cent.

The estimates for the next current year amounted to \$3,965,392.61; the pending bill carries appropriations for \$3,764,642.66, or less by \$200,945.20 than the estimates, and in addition to that we provide \$50,000 in this bill for the expenses of the Pan American Congress, that was not estimated for, which leaves over \$250,000 of the estimates that were disallowed.

The pruning of the estimates was carefully done and the appropriations provided for are believed to be sufficient to meet all the needs of our foreign service for the next fiscal year and is nowhere extravagant.

The Committee on Foreign Affairs indulges the hope that it will pass the House without material change.

Mr. MANN. I have authority from the gentleman from Illinois to yield his hour to the gentleman from Pennsylvania [Mr. OLMSTED], and I now yield to him that time.

Mr. OLMSTED. Mr. Chairman, before commencing I ask unanimous consent to extend my remarks in the Record and to insert therein certain documents which I do not wish to consume the time of the House in reading.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. OLMSTED. Mr. Chairman, there is pending in this House a bill introduced by my friend from Virginia [Mr. JONES], chairman of the Committee on Insular Affairs, which is so remarkable and so dangerous in its provisions that I feel justified in devoting a brief period to its discussion. It is H. R. 22143, and is entitled:

A bill to establish a qualified independent government for the Philippines and to fix the date when such qualified independence shall become absolute and complete, and for other purposes.

It creates what is to be known as "The Republic of the Philippines." It provides that at 12 o'clock noon, on the 4th day of July, 1913, the officers of the republic shall take their official places and that "on and from that day and hour, and forever thereafter, the present government shall cease to exist." It not only abolishes the government heretofore provided by the Congress of the United States, but it prohibits Congress from hereafter legislating in any way for the Philippine Islands or exercising any control over them, except by the exercise of the veto power upon public acts passed by the Philippine Congress. It does provide that for eight years, or until July 4, 1921, the President of the United States shall have the right to veto all "public acts" of the Philippine Congress, and that if he shall fail to do so, the Congress of the United States may, during the said eight years, annul any bill passed by the Congress of the Philippines. It specifically confers upon the Congress of this proposed Philippine Republic the power to borrow money, to regulate commerce with foreign nations, to constitute judicial tribunals, and to "exercise all other rights of sovereignty," with the proviso that for eight years after July 4, 1913, it shall not have the power to declare war or grant letters of marque or reprisal or make treaties with foreign powers without the concurrence and consent of the United States Government, and that "all treaties and commercial conventions sought to be entered into by the Philippine Government with foreign powers from and after the 4th day of July, 1913, for a period of eight years, shall be submitted to the President of the United States, and by him to the Senate of the United States for its action." The president of the Republic of the Philippines is indeed, for the period of eight years, to be appointed by the President of the United States, by and with the advice and consent of the Senate; and in the same manner members of the Supreme Court of the Philippines may be appointed. Except as I have mentioned, the United States may have no control whatever. Both branches and all the members of the Congress of the Philippines—that body which is not only to legislate upon certain subjects, but is also expressly authorized "to exercise all other rights of sovereignty"—are made elective. The Congress of the United States is deprived of all power to legislate for or concerning the Philippine Islands or the inhabitants thereof; and yet, in the same act, it is distinctly and expressly and emphatically provided and declared that "the United States guarantee to the Philippines their independence, and shall protect them against invasion and, on application of the congress thereof, against domestic violence for the period of eight years from and after the 4th day of July, 1913," and at the expiration of the said eight years the Philippine Republic is "to

become an absolute sovereignty in foreign as well as domestic affairs."

From this brief résumé of the bill it will readily appear that, from the very start, the authority of the United States in the Philippine Islands will be taken away. No affirmative action by our Government is permitted, and yet all our responsibilities are to remain.

The bill itself, upon its very face and in its preamble, acknowledges and admits that the Filipinos are not qualified for self-government; that they are not even qualified to adopt their own constitution, for it provides in its preamble that "to secure the blessings of liberty to them and their posterity the people of the United States do ordain and establish this act of Congress as a constitution for the Philippine Islands"; and again, we read in section 28, "that this act is hereby declared to be the constitution of the Republic of the Philippines." What people, qualified for self-government, would ever submit to have their constitution prepared, ordained, and established by another nation? If they are qualified for independence, why shall we force upon them a constitution of our own adoption? If we do insist upon adopting a constitution for them, it must be because we consider them incapable of framing one for themselves; and yet this remarkable bill provides "that the Government of the Philippines, established in accordance with this act, shall assume and carry into effect the treaty obligations of the United States with the Kingdom of Spain." Not merely the obligations of the treaty of Paris, but all treaty obligations with the Kingdom of Spain. Without asking the permission of Spain, which is one of the parties to the treaty contracts, we are to try to slip out from under our obligations and ordain that they shall be assumed and carried into effect by a people who are not qualified even to frame a constitution for their own government.

#### THE PHILIPPINES NOT A BAD BARGAIN.

The Philippine Islands and the island of Porto Rico were acquired by the United States at the same time, in the same manner, and under the provisions of the same treaty. Why this mad rush to "secure the blessings of liberty" to the Filipinos before they are ready to enjoy them, while we say nothing about securing the same blessings to the people of Porto Rico? The reason is that the people of this country have been studiously taught to believe that, while the United States secured a very good bargain in Porto Rico, it made a very bad one in the Philippines; that the latter are worthless possessions, and are constantly costing our Government enormous sums of money. The facts are exactly the contrary. The Philippines are very rich possessions. If Germany or Japan or any other foreign nation possessed them, they would never let them go. So much of the territory of Japan is mountainous, barren, and difficult that, industrious and enterprising as they are, the Japanese have been able to bring under cultivation only a very small proportion of its total area. There are more than three times as many acres of rich, fat soil lying uncultivated and untouched in the Philippine Islands as are now cultivated in Japan. Japan supports a population of 40,000,000. The Philippines could as easily support 100,000,000 people. Japanese imports and exports increased from \$13,000,000 in 1868 to more than \$407,000,000 in 1908. The imports and exports of the Philippine Islands increased from \$25,479,922 in 1899 to \$104,864,816 in 1912. The imports of the Philippines from the United States increased from \$1,150,613 in 1899 to \$20,604,155 in 1912; and the exports to the United States from \$3,540,894 in 1899 to \$16,716,956 in 1911, and still larger figures for 1912.

The soil of the Philippine Islands is so fertile that, although tickled in the crudest manner and with the most primitive instruments, it laughs with harvests of great abundance.

Prof. Charles V. Piper, who has spent much time in the Orient, and particularly in Java and in India, recently returned after a visit of six months in the Philippines. In speaking of their agricultural possibilities he says:

The Philippines are probably the most fertile tropical islands in the world. They are certainly far richer in this respect than Java, which has long been heralded as the richest tropical island.

And adds—

I doubt if there is an equal area anywhere in the United States capable of yielding as much agricultural produce as these islands.

He finds, however, that the processes of agriculture are there very crude, and that less than 5 per cent of these rich lands is in actual cultivation. He complains, also, that under the delusion that we are endeavoring to show to the world the pure altruism of our motives, "we are virtually forbidding American enterprise to develop the richest islands in the world."

Of the Filipinos themselves he says:

There can be no question that the great mass of the Filipino people is at present incapable of self-government, and it is misdirected friendship to encourage them in the belief that they can acquire this develop-



ment in less than two or three generations under American tutelage. I do not question the sincerity of Americans who argue that the Filipinos should be given immediate independence, but this would be worse than an error—it would be a crime.

Think of the possibilities, if these people were taught modern methods and the use of modern implements so as to make the most of their lands; and think of the possibilities of trade and the vast market for our products when those islands shall become more densely populated, as they are destined to be when intelligent methods of agriculture shall prevail over their now untouched millions of acres. Already they have become our very largest purchaser of cotton goods, and during the nine months ending September 30, 1912, purchased from the United States 59,654,872 yards of the manufactures of cotton.

Their most extensive and valuable crop is hemp, but in 1912 they exported copra, or dried coconut meat, of the value of more than \$16,500,000. This country pays annually many millions of dollars for rubber. Much of the soil of the Philippines is adapted to its culture, and they could readily supply enough for all our uses. They have splendid sugar lands, but their methods are so antiquated and crude that they can not compete in many markets. They obtain and utilize only about one-half of the juice of the cane, while by modern methods nearly all of it is saved and made into sugar. They make mostly what we used to know as "muscovado," a sugar which is brown in color and cheap in price. There are some 60,000,000 of acres of public lands lying untouched. They are not taken up, partly because an act of Congress restricts to 40 acres the amount which may be purchased by any one man, whereas at least 5,000 acres are necessary to justify the erection of the costly modern centrale in which alone sugar can be advantageously and profitably produced.

Mr. JONES. Mr. Chairman, will the gentleman yield?

Mr. OLMSTED. Certainly.

Mr. JONES. Will the gentleman please state what is the principal food product of the Philippine Islands?

Mr. OLMSTED. The principal food product of the Philippine Islands is rice, or, rather, that is their principal article of food.

Mr. JONES. Is the gentleman not aware that within the past 10 years there has been imported into the islands to keep the people from starving 2,485,000 tons of rice, of the value of \$165,000,000?

Mr. OLMSTED. I can not vouch for the accuracy of those figures, but I am entirely familiar with the fact that they do not produce as much rice as they consume. I am also familiar with the further fact that legislation enacted by Congress, and the changing of which is opposed by the gentleman from Virginia himself, has made it impossible to purchase in that island by one man enough land to make the cultivation of rice profitable. The cultivation of rice can not be carried on profitably upon 40 acres of land, and that is the utmost limit of public lands which can be purchased there now.

Mr. CRUMPACKER. Mr. Chairman, will the gentleman permit a suggestion or a question in that direction?

Mr. OLMSTED. Certainly.

Mr. CRUMPACKER. Is it not true that the rice famine in the Philippine Islands was brought about chiefly by the rinderpest that destroyed the water buffalo, the beast of burden and of agriculture in the islands?

Mr. OLMSTED. That is very largely true as to one or two years. It is also true that, on the average, they do not raise as much rice there as they ought to, or as they consume, or as they would if they were permitted to purchase more land for that purpose.

What the islands need is development—not exploitation, but development. The people should be taught by precept and example how to till their lands to make the most of them. When that has been done the result is sure to be something astonishing. They are very rich possessions.

THE PHILIPPINES ARE COSTING THE UNITED STATES PRACTICALLY NOTHING AT THE PRESENT TIME.

Great efforts are being made to convince the people that the Philippines are a vast annual expense to the United States. President Taft, in recent addresses—and I think, also, in one or more messages—has declared that their present cost to the United States is practically nothing. The gentleman from Virginia a few days ago endeavored to show that the annual expense is \$40,000,000.

In arriving at those figures he puts down as an annual expense all the money which has been expended in the last 10 years in permanent fortifications, which will always be necessary to protect the naval stations, the necessity of which even his bill admits and provides for. He charges that our soldiers in foreign service get 20 per cent more pay for enlisted men and 10 per cent more for officers. He alleges that all this extra pay for foreign service amounts to \$995,000 and that "practically

every dollar of which is paid to our troops serving in the Philippines," and then carries it out into his computation at \$12,000,000. The other items which go to make up his \$40,000,000 are not very clearly stated, except that the cost of maintaining the Bureau of Insular Affairs at Washington "exceeds \$1,000,000." In answer to that I will insert in the Record at this point, without stopping to read, a letter from Gen. McIntyre, chief of that bureau, showing that the annual expense at all chargeable to the Philippines is \$85,000.

WAR DEPARTMENT,  
BUREAU OF INSULAR AFFAIRS,  
Washington, February 4, 1913.

Hon. MARLIN E. OLMSTED,  
Representative in Congress, Washington, D. C.

MY DEAR MR. OLMSTED: Pursuant to your request for a statement as to the annual expenses to the United States Government of the Insular Bureau, I beg to state that the appropriations for the fiscal year ending June 30, 1913, are as follows:

Officers	\$15,000
Personnel	91,840
Rent	2,220
Total	109,060

The appropriation for salaries of the clerical force of the bureau for the fiscal year ending June 30, 1905, when practically all of its work related to the Philippines, was \$79,800, and the average annual appropriation for the clerical force during the last nine years has been about \$85,000. It would be extremely difficult to determine what proportion of the appropriations for the bureau are properly chargeable to the Philippines, but certainly it would not be fair to charge any greater amount than the appropriation for 1905. At the present time the bureau has charge of the affairs of the civil government in the Philippines and in Porto Rico and the work pertaining to the Dominican customs receivership. The receivership was inaugurated in 1905, and from September, 1906, to January, 1909, the bureau had under its charge the affairs relating to the provisional government of Cuba, so that since the organization of the bureau it has on several occasions been called upon to take over work which at times required the greater part of its attention.

Very sincerely,

FRANK MCINTYRE.

So the \$1,000,000 of my friend from Virginia drops down to \$85,000. An analysis of his other vague charges would result in a much larger proportion of shrinkage. It is not fair to charge against the Philippine Islands the expense of fortifications there, and surely it is improper to charge their entire cost as an annual expense. The pending bill itself acknowledges that whether we do or do not control the Philippines the United States must have "coaling and naval stations" there, for it provides on page 3 that we are to retain them.

Such coaling and naval stations are absolutely necessary, and, of course, if they are to be of any use they must be fortified, so that they may be protected. If the Republic of the Philippines is to be created as a separate and distinct Government, which may or may not always be friendly to us, such fortification must be all the more complete. Nor is it fair to charge as an annual expense of the Philippines any portion of the expense of the Spanish War.

It is safe to assume that the passage of the pending bill would increase rather than diminish the annual expense of the United States in the Philippines. We should have to retain the same troops there for eight years at least, and probably a great many more.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. OLMSTED. Certainly.

Mr. MARTIN of South Dakota. I understand the gentleman to say that at the present time practically our administration or our relations with the administration of the Philippines is without expense, or at least without great expense.

Mr. OLMSTED. I do.

Mr. MARTIN of South Dakota. Could the gentleman tell the committee, by way of approximation, how much, if anything, it has cost the United States because of our relations with the Philippine people and to their problems, since the treaty of Paris, having no relation to the war itself, but what, if anything, approximately has our policy of an effort at civilization in the Philippines cost from the time, say, of the signing of the treaty of Paris to the present time?

Mr. OLMSTED. Of course, after the treaty of Paris we had some expense in subduing the insurrection and in pacifying the islands. I suppose the gentleman does not mean to include that?

Mr. MARTIN of South Dakota. No; I would not. I have reference merely to the policy that we adopted in reference to the education and the civilization of the Philippines.

Mr. OLMSTED. That policy has cost us nothing under American control. The government there has made vast permanent improvements and yet has been self-supporting. It has a surplus at the present time.

I am not making an argument in favor of the permanent retention of the Philippines. I am merely endeavoring to show that neither as a bad bargain nor as a source of expense to us



are the Philippine Islands deserving of the evil days which the passage of this bill at this time would surely bring upon them and upon us.

IGNORANCE AND LACK OF HOMOGENEITY UNFIT THEM FOR SELF-GOVERNMENT.

The inhabitants of the Philippine Islands do not constitute a homogenous people; some are styled civilized and some are admittedly wholly wild. There are spoken in the islands not less than 15 or 20 different languages or dialects. Very many of those who speak one dialect can not speak or understand another. Only a small percentage of all the people of the islands can read and write in any language or dialect, and less than 3 per cent possess what we would call a fair high-school education.

Mr. QUEZON. Mr. Chairman, will the gentleman yield?

Mr. OLMSTED. Certainly.

Mr. QUEZON. Would the gentleman care to inform the House how much personal information he has about the Filipino people and their qualifications for self-government?

Mr. OLMSTED. I will show the gentleman what evidence I have.

Mr. QUEZON. Would the gentleman answer another question?

Mr. OLMSTED. Certainly.

Mr. QUEZON. Has the gentleman ever been in the Philippine Islands?

Mr. OLMSTED. I have not, but I know and the gentleman from the Philippines knows that the inhabitants of those islands do not constitute a homogenous people. He knows there are 15 or 20 different dialects or languages spoken in the islands and he knows that there are no less than 24 different tribes in the islands, 8 civilized and 16 uncivilized.

Mr. QUEZON. Is the gentleman informed that the census of the Philippines Islands, published under the guidance and responsibility of the United States Government, says that the people of the Philippine Islands are more homogenous than are the people of the United States?

Mr. OLMSTED. No; it does not say anything of the kind.

Mr. QUEZON. I will send for it.

Mr. JONES. If the gentleman will permit me I will read it. I have it here.

Mr. OLMSTED. No; I will read it myself.

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Virginia?

Mr. OLMSTED. Not at present; in a moment I will. The gentleman refers to a single paragraph of less than two lines quoted in the report of the Committee on Insular Affairs, from which he draws the inference that the people there are more homogenous than the people of the United States, and there is something in that extract which would perhaps, standing by itself, justify the assertion, but I propose to read further from the Philippine census report in a moment.

Under the present law the requirements of voters in the Philippines are very simple. Anybody may vote who was an officeholder under the Spanish régime or who is able to speak or write either English or Spanish or who is possessed of property to the value of \$250 or who pays taxes to the amount of \$15 per annum. Any one of these qualifications enables a Filipino to vote. The first Philippine Assembly was elected in 1907. Out of a population of 8,000,000 there were but 98,257 voters.

Mr. QUEZON. Will the gentleman yield for a question?

Mr. OLMSTED. Yes.

Mr. QUEZON. Does the gentleman believe if the people of the United States were required to read and write German before they could vote there would be many voters in the United States?

Mr. OLMSTED. If the people of the United States were required to read the official language of this country, I think a good many of them—millions of them—would be entitled to vote. Spanish is the official language of the Philippines, and has been for 300 years.

Mr. QUEZON. It is not the native language.

Mr. OLMSTED. There are 15 or 20 native languages.

At the election of 1909 there were 192,975 voters, being less than 3 per cent of the population. At the election in 1912 there were registered 248,154, but only 235,786 persons voted. Of those who were registered only 81,916 possessed the requisite educational qualification. The others were registered because they possessed the requisite amount of property or had held office under the Spanish régime. From page 46 of the report of the Philippine Commission for 1912 I read the following:

The registration, the largest yet recorded, shows a large increase over that of 1909, and included about 3.5 per cent of the census population of the territory holding elections. There were actually cast about 96 per cent of the registered votes, or 3.3 per cent of the population.

Although the educational qualification for voting is not high, consisting only of ability to speak or write either English or Spanish, the proportion of electors shown to possess this degree of education, includ-

ing the city of Manila, where 86 per cent were literate, was very nearly but not quite one-third of those registered. In the Provinces alone but 30 per cent were educated. This lack of education required a large number of ballots to be prepared by the inspectors, a proceeding which opens the door to fraud and which is known to be one of the chief reasons for the large number of protested elections, which was 240. The proportion of literate electors to the population in the territory affected was 1.47 per cent.

In Manila, which is a city of over 400,000 population, 10,503 persons were registered. Of this number 8,963 possessed the requisite educational qualifications. The others were registered upon other qualifications. Of those entitled to vote, 8,963, or about 86 per cent, possessed the requisite education qualifications—not 86 per cent of the entire population, but 86 per cent of those who were entitled to vote. "In the Provinces alone but 30 per cent were educated." This does not mean 30 per cent of the entire population, but 30 per cent of those who were entitled to vote. The other 70 per cent voted on property, tax, or previous office-holding qualifications. The significant fact is that "the proportion of literate electors to the population in the territory affected was 1.47 per cent" including Manila, where the literate are most numerous, but not including Moro and other wild Provinces, where illiteracy is almost universal and where no elections were held. It has been said that the learning of the many is liberty, but the learning of a few is despotism. What liberty would there be in turning over 8,000,000 people to pretended self-government when less than 1½ per cent of them possess sufficient education to vote under the present liberal suffrage laws? What intelligent man can honestly believe that such people are qualified to maintain what the American people understand when we speak of a Republic?

President Taft was the first Governor General of the Philippines. He administered their government with eminent success and was exceedingly popular with the inhabitants. When he became Secretary of War under President Roosevelt he had supervision over their affairs. He visited and was familiar with nearly every Province. His familiarity with the Spanish language enabled him to acquire an unusual amount of information as to their intelligence, their habits of thought, and their desires. His long residence there, his subsequent visits, his association with the people of all classes and of all parts of the islands combine to make him better qualified than any other American to testify concerning them. As Secretary of War he sent a special report to President Roosevelt in 1908, in which he said:

WHAT SECRETARY OF WAR TAFT SAID.

*Any attempt to fix the time in which complete self-government may be conferred upon the Filipinos in their own interest is, I think, most unwise. The key to the whole policy outlined by President McKinley and adopted by Congress was that of the education of the masses of the people and the leading them out of the dense ignorance in which they are now, with a view to enabling them intelligently to exercise the force of public opinion, without which a popular self-government is impossible.*

*It seems to me reasonable to say that a condition can not be reached until at least one generation shall have been subjected to the process of primary and industrial education, and that when it is considered that the people are divided into groups speaking from 10 to 15 different dialects, and that they must acquire a common medium of communication and that one of the civilized languages, it is not unreasonable to extend the necessary period beyond a generation. By that time English will be the language of the islands and we can be reasonably certain that a majority of those living there will not only speak and read and write English, but will be affected by the knowledge of free institutions and will be able to understand their rights as members of the community and to seek to enforce them against the pernicious system of caciquism and local bossism which I have attempted in this report to describe.*

*But it is said that a great majority of the people desire immediate independence. I am not prepared to say that if the real wish of a majority of all the people—men, women, and children—educated and uneducated, were to be obtained there would not be a very large majority in favor of immediate independence. It would not, however, be an intelligent judgment based on a knowledge of what independence means, of what its responsibilities are, or of what popular government in its essence is. But the mere fact that a majority of all the people are in favor of immediate independence is not a reason why that should be granted, if we assume at all the correctness of the statement, which impartial observers can not but fail to acquiesce in, to wit, that the Filipinos are not now fit for self-government.*

*The policy of the United States is not to establish an oligarchy, but a popular self-government in the Philippines. \* \* \* The presence of the Americans in the islands is essential to the due development of the lower classes and the preservation of their rights.*

And again, in the same report, Secretary Taft said:

*The educated Filipino has an attractive personality. His mind is quick; his sense of humor is fine; his artistic sense acute and active; he has a poetic imagination; he is courteous in the highest degree; he is brave; he is generous; his mind has been given by his education a touch of the scholastic logicism; he is a musician; he is oratorical by nature.*

*The educated Filipino is an aristocrat by Spanish association. He prefers that his children should not be educated at the public schools, and this accounts for the large private schools which the religious orders and at least one Filipino association are able to maintain. In arguing that the Philippines are entirely fit for self-government now a committee of educated Filipinos once filed with the civil governor a written brief, in which it was set forth that the number of "ilustrados" in the islands was double that of the offices—central, provincial, and municipal—and therefore the country afforded two "shifts" of persons com-*



petent to run the government. This, it was said, made clear the possibility of a good government if independence was granted. The ignorance of the remainder of the people, admitted to be dense, made no difference. I cite this to show how little importance an intelligent public opinion or an educated constituency is regarded in the community and government, which many of the educated Filipinos look forward to as a result of independence.

WHAT PRESIDENT ROOSEVELT SAID.

In his special message to Congress presenting that report, President Roosevelt said:

I transmit herewith the report of Secretary Taft upon his recent trip to the Philippines. I heartily concur in the recommendations he makes. No great civilized power has ever managed with such wisdom and disinterestedness the affairs of a people committed by the accident of war to its hands. *If we had followed the advice of the misguided persons who wished us to turn the islands loose and let them suffer whatever fate might befall them, they would already have passed through a period of complete and bloody chaos, and would now undoubtedly be the possession of some other power, which there is every reason to believe would not have done as we have done.* Save only our attitude toward Cuba, I question whether there is a brighter page in the annals of international dealing between the strong and the weak than the page which tells us of our doings in the Philippines. I call especial attention to the admirably clear showing made by Secretary Taft of the fact that it would have been equally ruinous if we had yielded to the desires of those who wished us to go faster in the direction of giving the Filipinos self-government, and if we had followed the policy advocated by others who desired us simply to rule the islands without any thought at all of fitting them for self-government. It may probably be a generation—it may even be longer—before this point is reached, but it is most gratifying that such substantial progress toward this as a goal has already been accomplished. We desire that it be reached at as early a date as possible for the sake of the Filipinos and for our own sake. *But improperly to endeavor to hurry the time will probably mean that the goal will not be attained at all.*

In his last annual message to Congress President Roosevelt said:

The Filipino people, through their officials, are therefore making real steps in the direction of self-government. I hope and believe that these steps mark the beginning of a course which will continue till the Filipinos become fit to decide for themselves whether they desire to be an independent nation. But it is well for them (and well also for those Americans who, during the past decade have done so much damage to the Filipinos by agitation for an immediate independence for which they were totally unfit) to remember that self-government depends, and must depend, upon the Filipinos themselves. All we can do is to give them the opportunity to develop the capacity for self-government. If we had followed the advice of the foolish doctrinaires who wished us at any time during the last 10 years to turn the Filipino people adrift, we should have shirked the plainest possible duty and have inflicted a lasting wrong upon the Filipino people. We have acted in exactly the opposite spirit. We have given the Filipinos constitutional government; a government based upon justice; and we have shown them that we have governed them for their good and not for our aggrandizement. At the present time, as during the past 10 years, the inexorable logic of fact shows that this Government must be supplied by us and not by them. We must be wise and generous; we must help the Filipinos to master the difficult art of self-control, which is simply another name for self-government. But we can not give them self-government save in the sense of governing them so that gradually they may, if they are able, learn to govern themselves. Under the present system of just laws and sympathetic administration, we have every reason to believe that they are gradually acquiring the character which lies at the basis of self-government, and for which, if it be lacking, no system of laws, no paper constitution, will in anywise serve as a substitute. Our people in the Philippines have achieved what may legitimately be called a marvelous success in giving to them a government which marks on the part of those in authority both the necessary understanding of the people and the necessary purpose to serve them disinterestedly and in good faith. I trust that within a generation the time will arrive when the Filipinos can decide for themselves whether it is well for them to become independent or to continue under the protection of a strong and disinterested power able to guarantee to the islands order at home and protection from foreign invasion. *But no one can prophesy the exact date when it will be wise to consider independence as a fixed and definite policy. It would be worse than folly to try to set down such a date in advance, for it must depend upon the way in which the Filipino people themselves develop the power of self-mastery.*

In 1910 Hon. J. M. Dickinson, then Secretary of War and a Democrat, after an extended visit to the Philippines, made a special report to the President, in which, speaking of the attempt of politicians, through the press and in other ways, to stimulate a general demand for immediate Philippine independence, he said:

While, as stated, these are the only views publicly expressed, I became convinced from reliable evidence that many of the most substantial men, while not openly opposing the demands publicly voiced, would regard such a consummation with consternation. They realize that the Government would fall into the hands of a few who would dominate the masses; that the administration, even without outside interference, could not be successfully carried on; *that there would be internal dissensions and probably civil war*; and that if the United States did not interfere they would fall an easy prey to some foreign power.

Mr. JONES. Will the gentleman yield to me for one question?

Mr. OLMSTED. With pleasure.

Mr. JONES. Is it not a fact that the official reports show that out of 12,500 municipal and township officers only three are Americans, and do not those reports also show that of the 29 judges of the courts of first instance 14 are Filipinos; do not the reports show of the judges of supreme court 3 are Filipinos, 1 of whom is the chief justice?

Mr. OLMSTED. Yes; appointed by the President of the United States.

Mr. JONES. And the attorney general of the Philippines is a Filipino. And is it not a fact that the Philippine lawyers are regarded as better lawyers than the American lawyers who are located in the islands?

Mr. OLMSTED. Well, I have no doubt, Mr. Chairman, that there are some Filipino lawyers who are better lawyers than some American lawyers, but that does not prove anything. I assume that there are in Manila a few quite able lawyers. I will assume that there are some able and learned gentlemen there and some very eloquent gentlemen, but they are not the whole Philippine Islands. My contention is that a handful of intelligent aristocrats in the city of Manila can not be trusted to rule 8,000,000 of people, the most of whom are densely ignorant, who do not speak the language common in Manila, and who have not the intelligence to choose their own rulers.

Mr. JONES. Will the gentleman permit just one question more? Is it not a fact that their fiscals—that is, the prosecuting attorneys in the islands—are practically all Filipinos?

Mr. OLMSTED. Very many of them are. It has been the purpose of our people to give as far as possible the municipal offices into the hands of Filipinos, but I notice that actions were brought for the removal of some hundreds of them within the last year or two because of unfitness or of improper conduct.

Mr. LONGWORTH. Will the gentleman yield to me at that point?

Mr. OLMSTED. Yes.

Mr. LONGWORTH. In line with what the gentleman was saying as to the small aristocratic class which desired to assume the reins of government I will quote to him a sentence from a memorial presented to Members of Congress who visited the Philippine Islands in 1906, offered as a particular ground for giving Filipinos immediate independence. It is as follows:

It is undeniable that there exists in the Philippines in sufficient numbers the so-called "directing class," a small portion of which is employed by the present Government in all the branches of administration, cooperating actively and effectively with the Government in its gubernatorial labor. If the Filipino Archipelago has a governable popular mass, called upon to obey, and a directing class in charge of leading, it then has conditions to govern itself by itself. These are the only two factors, without counting the casuals, who determine the popular capacity of a country. The directing class is the entity that knows how to lead, and the popular mass is the entity that knows how to obey.

Does the gentleman think that presents reasons for giving the Filipinos immediate independence?

Mr. OLMSTED. I think it shows that the Filipinos who presented that memorial little understood the qualifications for self-government, republican in form. The memorial itself affords abundant proof of the incapacity of the masses. What we know as republican self-government could not be maintained under such a division of classes as that. We proceed upon the theory that all the people, and not merely a "directing class," are entitled to participate in the Government.

I think that the gentleman from Virginia [Mr. JONES] was a member of that celebrated Taft party, and that he was present when that memorial was presented. The gentleman from Ohio [Mr. LONGWORTH] was there, too, and he will always remember that trip. Both gentlemen doubtless recall that, immediately after the reading of that memorial, Dr. Dominador Gomez, the Filipino labor leader, addressed the Americans present, and, among other things, said:

I must call to the attention of the honorable Members of Congress who hearken to my words the fact of the injustice, if such a word can be used, of the Government of the United States in listening too much and in laying too much stress to the words and representations of that class of people known in this country as the "gente ilustrada," or the learned class.

I trust that the gentleman from the Philippines [Mr. QUEZON] approves my pronunciation.

Mr. QUEZON. It is splendid.

Mr. OLMSTED. He says it is splendid.

One of our representatives present asked whether by the use of the term "gente ilustrada" he referred to the directing class or to the obeying class. In reply, Gomez said:

I was referring to the class of people who live in ease and comfort and who generally represent the intelligence and education of the country.

The census report shows that the directing class constitute no more than 1.6 per cent of the population of the islands. Those who are clamoring most for Philippine independence and those in whose interest this Republic of the Philippines is to be created are the "gente ilustrada." The common people, who represent more than 98 per cent of the Philippine population, would have very little part in it.

THE PHILIPPINE CENSUS REPORT SHOWS THE IGNORANCE AND HETEROGENEOUSNESS OF THE PEOPLE.

The report of the Committee on Insular Affairs in support of the pending bill quotes a paragraph from the report of a former Philippine census, from which the committee draws its own con-

clusion that "the truth is that they are more homogeneous than the people of the United States." Taken as a whole the census report proves just the opposite. Thus, it declares that—

The selection of a sufficient number of intelligent Filipinos able to read, write, and speak the Spanish language, as well as the various dialects of the people, to serve as enumerators and special agents, was by no means a trivial undertaking.

It was estimated that of the 7,000,000 of civilized population 700,000, approximately, could read and write Spanish; but, according to the archbishop of Manila, not more than 7,000 belonged to the educated class.

And again:

In short, a census on the American plan would not have been feasible unless the governors of the organized provinces, the presidentes of the municipalities, the members of the municipal council, and, as far as possible, all of the gente ilustrada (the principalia) were connected with it, so that it might have behind it the support of those classes of the population so influenced then and now with the masses, or common people.

Therefore it was decided to constitute each organized province a supervisor's district and to appoint the governor of the province the supervisor; that the presidentes, or mayors, of the municipalities should be appointed special agents; and "that as many of the councilors and of the principalia as were qualified should be appointed as enumerators." Even at that they had great difficulty in finding a sufficient number of enumerators who could speak, read, and write Spanish, which has for centuries been the official language of the islands.

The report continues:

Many of the presidentes did not understand Spanish at all, and for the same reason, in a number of instances, enumerators had to be taken from one municipality to serve in another. This was, of course, a disadvantage, but was fully expected, as it was well known that in many of the barrios none of the inhabitants could read and write Spanish.

And, of course, they could not speak English.

The report points out that although the Spanish Government made provision for public schools and made the teaching of Spanish mandatory, nevertheless it was generally neglected, and those charged with the taking of the census found and reported that—

The tribes speaking the different dialects had practically no literature and no educational facilities. In short, literacy in any of the dialects is not incompatible with total ignorance on all subjects derived from books. Hence, as shown by the census, withholding instruction in Spanish from the Filipinos kept the great mass of them in ignorance, as the number who had received secondary instruction was but 1.6 per cent of the civilized population, and of the female population but seven-tenths of 1 per cent had received a secondary education. These were able to read, write, and speak Spanish, and comprised what may be called the educated class. In addition there were Filipinos who could speak Spanish without being able to read or write it; although very well known before, this fact was brought out more conspicuously by the census, especially in the selection of enumerators.

Thus the abuse of the Filipinos throughout the first 200 years of their experience with the early colonists, the assiduous and ceaseless efforts of their teachers to humble their pride, stifle their ambition, and impress upon them the superiority of the dominant race, and the utter hopelessness of any kind of equality with them have no doubt had their effect in causing indifference, shiftlessness, and recklessness.

As I have already stated, the provincial governors were made supervisors of the census. They were, of course, all native Filipinos. Some of their reports, published in the census volumes, are interesting and important in this connection. The governor of Abra, speaking of the inhabitants of his own Province, says:

These people differ among themselves in language, in religious belief, the manner of constituting the family, and disposal of the dead, the last being due to the different views they hold relative to the future life. They are also distinguished by radical differences in their manner of dress.

The governor of Zambales says of his Province:

The inhabitants are Christians of different origins, and have also different dialects, the principal being the Zambal, Ilocano, Tagalog, and Pangasinan. Notwithstanding the heterogeneous character of the inhabitants, there does not exist any animosity between them, but, on the contrary, they live in utmost harmony.

And now the governor of Tarlac:

The population of this Province is quite heterogeneous, and it is difficult to make a report regarding their customs, manner of living, etc., being one of the newest of Luzon, the creation thereof dating back only to the second third of the past century.

To the difference of origin of its inhabitants is due also the difference of the dialects they speak—Pamango by those of Pampanga, Pangasinan by those of said Province, Tagalog by those of Nueva Ecija, and Zambales by the Aetas and Negritos, and also Ilocano, by reason of the large contingent of families from the Ilocos Provinces. Hence their customs and manners are also different.

The governor of Pampanga testifies to these words:

The nationality represented by this Province is very notable, with its special dialect, character, and even its physiognomy, notwithstanding its vicinity to Manila. \* \* \* Their customs are peaceable, they are generous, hospitable, and much addicted to order and labor.

They are not free from the various and many superstitions which afflict people who unfortunately leave much to be desired in culture and education, especially if there be added thereto the religious fanaticisms which are so general among the masses.

And now we have the governor of Bataan, who says:

The language spoken is Tagalog, only a few in each town being able to speak and write the Spanish language. Of the total number of municipal councilmen in the Province only one-half are able to speak and write Spanish.

Reading further from the official census report, here is what the governor of Ambos Camarines has to say:

The overwhelming majority of the inhabitants of the Province are of the Bicol Tribe, the only important exception being in Camarines Norte, formerly a separate Province, where the Tagalog predominates. In that district the towns of Capalonga, Labo, Indan, Paracale, Mambulao, and San Vicente are almost entirely Tagalog; Basod, the nearest town to the Camarines Sur border is Bicol. Daet and Talisay are mixed, the Tagalog Tribe showing a majority.

Throughout the remainder of the Province the language in general use is the Bicol, but it is subject to such wide variations in different localities as to practically divide it into distinct dialects, each with manifold diversities, accent, and localisms. As the vast majority of the people have no knowledge of Spanish, and therefore have the local dialect as their sole medium of communication, they are far from a united people, residents of towns separated by but a few miles being considered practically as foreigners to each other.

The masses of the people have in former times had no educational opportunities and are extremely ignorant and superstitious. They are easily led and controlled by strong leaders, are credulous as children when dealing with persons in whom they have confidence, but shy and suspicious as to strangers.

This is the class of people which this pending bill proposes shall be factors in this proposed Philippine Republic.

The Committee on Insular Affairs was unfortunate in citing the census reports in support of its declaration that the people of the Philippines constitute a more homogeneous population than those of the United States. These unprejudiced reports of native governors, contained in the census reports, indicate not only the heterogeneous character of the natives in general, but each governor shows that the people of his own particular Province do not even approximate homogeneity. The census report itself separates the inhabitants of the islands into 8 separate and distinct civilized tribes and 16 distinct wild tribes, all of which, civilized and uncivilized, differ in customs, character, and language.

The gentleman from Virginia himself testifies upon this point. There has been some trouble recently among the Moros at Jolo. Aguinaldo has been accused of inciting it. In the course of his speech the gentleman from Virginia, chairman of the Committee on Insular Affairs, said:

I wish to say that Aguinaldo, who is charged by these Manila correspondents with inciting the trouble down in Jolo, was never in Jolo in his life. He does not speak the language which is spoken down there, and he would not, if he was there, understand a word that was said.

Mr. MOORE of Pennsylvania. How well would the limited number of the educated classes of Manila be able to control the 8,000,000 of the uneducated if American control were withdrawn?

Mr. OLMSTED. They would not be able to control them at all. In the first place those in and about Manila belong to the Tagalog Tribe, the most intelligent and best educated in the islands. The next tribe in importance and intelligence, the Visayans, outnumber them three to one, and would be jealous of a Tagalog government.

Mr. JONES. The gentleman does me the honor to refer to my remarks in which I said that Aguinaldo had never been in the Moro Province and did not speak the language. His comment is that Aguinaldo was president of the Mololos government. I want to say to the gentleman that Mololos is located in Luzon, and is some 1,000 or 1,200 miles away from the Island of Jolo. President Taft has probably traveled more than any President we have ever had, and yet there are probably States in our Union in which he has never been. The fact that he has been the President of the United States is no proof that he has been into every State in the Union.

Mr. OLMSTED. I mentioned it to show from your testimony that Aguinaldo did not understand and could not speak the language of that Province.

Mr. LONGWORTH. Is there any State where President Taft could go where he could not speak and understand the language?

Mr. OLMSTED. I think he could make himself pretty well understood in any State of the Union.

Mr. JONES. He probably could not speak the language of the Creoles.

Mr. LONGWORTH. He could speak Spanish.

Mr. OLMSTED. It has been charged here that Gov. Gen. Forbes took charge with a surplus of three millions and reduced it to a deficit of four millions.

Mr. QUEZON. I would like to ask the gentleman, in connection with the taking of the Philippine census, if he is informed of the fact that the census was taken in the Philippines



with the aid of the Filipinos, and that it would have been absolutely impossible to take the census without the Filipinos?

Mr. OLMSTED. They had to make the governors of Provinces supervisors and mayors of the towns enumerators to take the census at all, so great was the ignorance there, and many of these high officials were poorly qualified.

Mr. QUEZON. Is the gentleman from Pennsylvania aware of the fact that the Director of the Census acknowledged in his report that it would have been absolutely impossible for the United States to take the census in the Philippine Islands if it had not been for the fact that Gov. Gen. Taft issued a proclamation inviting the Filipinos to cooperate in the taking of the census so that they may show that they were capable for self-government?

Mr. OLMSTED. Of course Americans could not have taken the census where there were 15 or 20 languages that they did not understand, and there were no Filipinos who could have taken it entirely, because there was no one who could speak all the languages or dialects. They had to take the Provinces and towns separately by persons who could speak the particular dialect in each place. Even then they had great difficulty in finding enough persons of sufficient education and intelligence to perform the very simple duties of enumerator. There is nothing in the manner of taking the census nor in the census itself showing capacity for self-government.

Mr. MURRAY. I did not get clearly the first part of the gentleman's remarks. I rise to inquire whether the gentleman believes in a permanent colonial policy by the United States in respect to the Philippines or some ultimate form of self-government?

Mr. OLMSTED. As I said at the outset, I am not arguing in favor of permanent retention. But I do say that at the present time they are not qualified. It is our duty to help them to become qualified.

Mr. MURRAY. Has the gentleman, who is familiar with this situation, any definite plan as to when they shall work out?

Mr. OLMSTED. The evidence all tends to show that it will be at least a generation, or perhaps two, before that time will arrive. Before that time comes there must be general education in some one language, so that people of different Provinces may communicate with and understand each other, and that language ought to be English.

None of the many languages spoken in the Philippines has any literature of its own, save only the Tagalog and the Visayan, and neither of them has a literature of any very great importance. The Visayans outnumber the Tagalogs three to one, but the Tagalogs have a higher average of intelligence. They are the people who live in and around Manila. Aguinaldo's government was practically a Tagalog government, and so would be the Philippine Republic which this bill strives to create, a government not by the people, but by the aristocratic, educated few.

While Spanish was the official language and was the one used by the office-holding class and by the priests, the people generally were not encouraged to learn it, and a large percentage of them can not speak it any more than they can speak English. It is needless to enumerate the difficulties of uniting under a republican form of government so many different peoples, who can not read or write or even speak each other's language. It is only fair to the Filipinos, as indicating their native intelligence and adaptability, to say that they have made greater strides in acquiring the English language during the last dozen years than they did in acquiring the Spanish in three centuries. Mabini himself suggested that English should be the official language of the Philippines. It is the commercial language of the East. There ought to be a general knowledge of English in the Philippines in order to prepare them for self-government, and the spread of the English language is a part of our unfinished work there.

Quoting again from the Philippine Census Reports for 1903, we find it definitely stated that—

The fact must be impressed that literacy among the people of the Philippines meant the ability to read and write in any language—English, Spanish, or a Malay tongue. Since, in all probability, less than 10 per cent of the people of the islands could speak Spanish or English, the fact is unquestionable that the majority of the people reported as literate could read and write only the native tongues. This is a result of the policy of the friars, who, from motives of their own, discouraged the learning of Spanish by the natives, in order that they might act as intermediaries between the people and the civil authorities, and thus retain their influences over their charges.

The incapacity of the Filipinos for prominent participation even in important private affairs is apparent from the fact that nearly all the commercial houses there are in the hands of Spaniards, Englishmen, Germans, or Americans, and much of the smaller business is in the hands of the Chinese. If they are incapable of managing important private affairs, it is not diffi-

cult to reason that they are not qualified to participate desirably in the important affairs of government.

PHILIPPINES SELF-SUPPORTING AND THEIR FINANCES IN GOOD CONDITION UNDER AMERICAN CONTROL.

It has been charged upon this floor that the administration of Gov. Gen. Forbes began with a surplus of three and a half millions and has run it into a deficit of four millions. That is absolutely untrue. Some portion of the surplus has been invested in needed permanent improvements, such as school-houses, roads, bridges, and so forth, but there is and has been no deficit. The gentleman from Virginia, angered by President Taft's opposition to his bill, has made a fierce attack upon his administration, and particularly upon Governor General Forbes, who is charged with illegal conduct, extravagance, and nearly everything else. But the charges are not sustained and fall harmless.

Mr. JONES. The gentleman does not mean to say I have made that statement?

Mr. OLMSTED. No; I do not say that the gentleman made it—not directly. He did, however, extend his remarks in the Record so as to include the statements of a person who did make it. I do not think the gentleman himself made such a charge, except by inserting in the Record somebody else's statement to that effect.

The principal witness produced by the gentleman from Virginia [Mr. JONES] in defense of his charges is Charles B. Elliott, of Minneapolis, who until recently was a member of the Philippine Commission and secretary of commerce and police. According to the native papers and Washington gossip he was endeavoring to undermine and succeed W. Cameron Forbes as Governor General. In any event, the recent conduct of his office was such as to compel President Taft to request his resignation, which was promptly tendered. In the newspaper interview with him included by the gentleman from Virginia as part of his speech he admits that he was an obstructionist, but insists that the most important difference between him and Governor General Forbes arose over the disposition of the funds in years for which the Philippine Legislature made no appropriations whatever.

In 1911, and again in 1912, the Philippine Legislature failed to make any appropriations for the support of government. Fortunately, provision for just such cases was made in the organic law, as follows:

And provided further, That if at the termination of any session the appropriations necessary for the support of government shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid.

In 1909 Congress passed a bill, which I had the honor to introduce, providing for Porto Rico a similar provision in almost identical language, as follows:

And provided further, That if at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid.

A controversy having arisen in Porto Rico, the construction of that act got into the United States district court and it was there judicially determined.

Mr. JONES. Does the gentleman refer to the case of Navarro against Post?

Mr. OLMSTED. Yes; I refer to that case.

Mr. JONES. I would like to ask the gentleman if he has read the opinion in that case?

Mr. OLMSTED. Yes; I have read the opinion. I will insert it in the Record.

Mr. JONES. I will be glad if the gentleman would do so, because the gentleman must know that the court held that the taxpayers who brought the suit against the officials had no right to maintain the action and that the case for that reason was dismissed. The gentleman knows that, if he has read the case.

Mr. OLMSTED. The court did, at the end of its opinion, hold that the complainants, being mere individual taxpayers, had no standing in court to enjoin the governor; but the court passed squarely upon the merits of the case. It is reported in Fifth Porto Rico Federal Reports, page 61, and that the court did pass upon the merits is apparent from the very first paragraph of the syllabus, understood to have been prepared by the judge himself, and which reads as follows:

1. Congress, on July 15, 1909, to avoid the crisis brought about by the failure of the Legislative Assembly of Porto Rico to appropriate any money to carry on the government for the current fiscal year, passed an act known as the Olmsted law, which amended section 31 of the organic act of the island (31 Stat. L., 83, ch. 191), and used

this language: "And provided further, That if at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purpose shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid." Held, that this does not mean that every specific appropriation of the previous appropriation bills is specifically reenacted to be specifically devoted to the purposes specifically set forth in such previous appropriation bills, but that it means that an amount equal to the total of the sums appropriated in such previous appropriation bills is deemed to be appropriated for the support of the government for the current fiscal year, with power in the governor to allot the same to the support of the government as its necessities may require according to the existing law.

I will insert the entire opinion, omitting the syllabus, in the Record at the conclusion of my remarks.

Mr. JONES. I would like to ask the gentleman another question right here. Does the gentleman think that the decision of a nisi prius court of Porto Rico would or should bind the action of officials in the Philippine Islands?

Mr. OLMSTED. Well, I think that, whether binding or not, the decision of a Federal court is pretty good authority and ought to be followed. I think also that the court properly construed the act.

Mr. JONES. Then let me, in this connection, ask the gentleman another question: Is the gentleman aware of the fact that the Philippine Commission, when this question came up before it, appointed a subcommittee of three, one of whom was the secretary of finance and justice, who also had been attorney general of the islands?

Mr. OLMSTED. I can not afford to let the gentleman take so much of my time. My time is limited.

Mr. JONES. And is the gentleman aware of the fact that this subcommittee, after an examination of the law, unanimously reported to the commission that the governor general had no right to do what the gentleman now seems to contend he had the right to do?

Mr. OLMSTED. They probably did not have the decision of the court before them.

After consulting with the Secretary of War, Governor General Forbes followed the ruling of the United States court instead of accepting the opinion of Mr. Elliott, and that was the sum of his offending.

The amount apportioned by Governor General Forbes under the full authority of law was, in the first place, not \$12,000,000, as stated by the gentleman from Virginia, but was exactly \$8,713,894. For the next year the allotment was not made by Governor General Forbes, but by Acting Governor Gilbert, and the amount was not \$14,000,000, but \$8,625,496.50. But, of course, a mere discrepancy of five or six millions is a small matter for a gentleman who is endeavoring to be precise in his statements of fact.

Baguio and the Benguet road, instead of being "liberally provided for," as charged, were not provided for at all, as not a single dollar was allotted to either of them. Nor is it true that appropriations were withheld because the lower house objected to the expenditure by the Philippine Commission of large sums in the construction of Benguet road. The Benguet road was constructed and completed two years before the First Philippine Assembly was elected. Nothing has been expended upon it since, except by way of repairs. Furthermore, that road is over 30 miles long, instead of 20 miles, as repeatedly stated.

Mr. Elliott was not always in his present state of disgruntlement at Philippine conditions. I hold in my hands a very useful and instructive little pamphlet entitled "Reciprocity and the Philippine Islands." As explanatory thereof, there appears upon the flyleaf the following statement:

DEPARTMENT OF COMMERCE AND POLICE, MANILA.

The Philippine Islands have now reached a point in their economic development when the attention of the public should be called to the business opportunities which are here presented. Questions of a political nature, in so far as they relate to the form and organization of local government, may be regarded as substantially settled. The business and working people are, as a whole, contented, and willing to do their part toward bringing about a condition of economic prosperity.

Believing that the dissemination of accurate information as to present conditions will be of advantage to the people of the United States and of the Philippine Islands, the Government, in connection with the Manila Merchants' Associations, publishes this pamphlet.

CHARLES B. ELLIOTT,

Secretary of Commerce and Police.

MANILA, August 11, 1911.

That pamphlet contains more valuable information touching business and conditions in the Philippines than has elsewhere ever been crowded into the same space. I shall quote only what Mr. Elliott thus indorses as "accurate information as to present conditions." On page 11 of this accurate statement of conditions he says:

For an entire decade Congress through its civil representatives has exercised absolute control over the affairs of the archipelago, and it is not indulging in hyperbole to say that the achievements marking these 10 years of rule have been little short of marvelous.

On page 12 he says that—

The Filipino to-day enjoys a measure of practical self-government far beyond anything he even aspired to under the dominion of Spain.

He then goes on to state the various things which have been accomplished, and on page 13 says:

Expenditures have been kept within receipts; the credit of the islands is first class and I ask the gentleman from Virginia to note these words: They cost the Washington Government not one penny beyond the increased expense of maintaining United States troops stationed here above what their maintenance would cost at home and the cost of fortifications that are to serve as means of permanent defense.

And after a further summary of what we have done for these people he says, at the bottom of that page:

This is, in part, what has been accomplished under American government in the Philippines, and it constitutes a record of achievement that challenges the admiration of the world. The people of the United States may justly be proud of it all.

[Applause.]

According to Mr. Elliott, this is an accurate record of what has been accomplished by what the gentleman from Virginia styles "this American-made, law-defying, self-interested oligarchy" acting in pursuance and under authority of laws enacted by the American Congress.

The indebtedness of the Philippines is \$1.50 per capita, as compared with \$11.42 in the United States, \$23.57 in Cuba, \$26.15 in Japan, \$31.29 in Brazil, \$51.34 in Chile, and \$89.46 in Argentina. The amount of interest paid thereon per capita is 6 cents in the Philippine Islands, as compared with 24 cents in the United States, 87 cents in Mexico, \$1.97 in Santo Domingo, 74 cents in Cuba, \$1.54 in Brazil, \$1.55 in Japan, \$2.04 in Chile, and \$4.85 in Argentina.

The simple fact is that the affairs of the Philippine Government under American control have been more economically and successfully administered than those of most of the States of this Union. The indebtedness per capita and the taxation per capita are both lower than in the State of Virginia or in many others of our States. Under Governors Taft, Ide, Wright, and Forbes, and under the supervision of Secretaries of War Root, Taft, Dickinson, and Stimson, the government of the Philippines has been and is admirable. It is a poor cause which depends for success upon the villification of officers who are performing the duties of their respective positions faithfully, intelligently, patriotically, and well.

LACK OF EXPERIENCE OF FILIPINOS IN GOVERNMENT.

The only experience of the Filipinos in government which the Insular Committee can cite in support of this bill is thus stated in its report:

There were Filipino deputies in the Spanish Cortes during portions of the first half of the nineteenth century, and in the year 1820 17 Filipinos sat in the Spanish Parliament. The Philippine constitution, written by Apolinario Mabini, and proclaimed by the Malolos government in 1899, is justly regarded as a notable intellectual achievement. Among those who represented the Philippine Republic, established by Gen. Aguinaldo in 1898, in the Malolos congress, were many Filipinos of learning, great ability, and unquestioned patriotism.

The experience of Filipino deputies in the Spanish Parliament was manifestly not satisfactory, for they were from time to time permitted, and again forbidden; and finally, in 1856, Philippine representation was permanently discontinued.

Mr. QUEZON. Will the gentleman yield?

Mr. OLMSTED. I yield for a question.

Mr. QUEZON. This is a matter of historical importance—

Mr. OLMSTED. I can not yield for a speech. I have not the time. I will yield briefly for a question.

Mr. QUEZON. I simply wish to remind the gentleman of the fact that the reason why those delegates were taken away from the Philippines was because the Republic of Spain fell.

Mr. OLMSTED. I do not care why they were taken away. They were taken away. They have had no experience in the Spanish Parliament for more than half a century.

Nobody doubts the intellectuality and ability of Apolinario Mabini, but he neither wrote nor approved of the Philippine constitution under which the Malolos or Aguinaldo government pretended to operate for a short period. Those who did write it admitted over their own signatures that in the main they had borrowed it from the constitutions of other countries which they considered most resembling the Filipino people. They said:

The work whose results the commission has the honor to present for the consideration of Congress has been largely a matter of selection. In executing it, not only has the French constitution been used, but also those of Belgium, Brazil, Nicaragua, Costa Rica, and Guatemala, as we have considered those nations as most resembling the Filipino people.

It will be observed that our Constitution was not one of those considered by the commission.

It does not seem to have been very much of a republic, for on June 18, 1899, Aguinaldo promulgated a decree for the administration of municipalities and Provinces. The heads of towns, who were to be selected by electors limited to those "marked by their good conduct, their wealth, and their social



position," were in turn to elect a head of the Province and three councilors. Under that decree, before any person elected to office could discharge its functions his election had to be approved by Aguinaldo. Capt. J. R. M. Taylor, of the United States Army, who gave much study to the history of that period, says that the proclamation issued by Aguinaldo "provided a strong and highly centralized military dictatorship, in which, under the form of elections, provision was made for filling all offices by men devoted to the group which had seized the functions of government." Aguinaldo, in effect, ruled in accordance with his own wishes, without much regard for the Malolos constitution. Most of the commissioners empowered to establish government in the Provinces were officers in his army, and either they or delegates appointed by them conducted the elections, restricting the right of voting, under his instructions, to men "marked by their good conduct, their wealth, and their social positions." There were so few qualified under those conditions that in the town of Lipa, with a population of 40,000, a presidente, or mayor, was chosen for whom just 25 votes were cast. In the town of San Carlos, having a population of 23,000, in Pangasinan Province, there was in this way chosen a presidente, or mayor. One candidate, who was a prominent member of the Katipunan, announced his intention of killing anyone who should defeat him. It is needless to state that, although he received very few votes, he was elected. [Laughter.] Some of the townspeople protested, but Aguinaldo approved his election.

The governor of a province in Luzon who had been elected in the manner above indicated throws some light upon the methods of conducting this so-called republican Aguinaldo government. He reported that—

Without losing sight of the fact that morality is the foundation of good government, I had to overlook some faults and irregularities due to the Spanish training and to the spirit of faction, since I considered that if I had employed coercion in these abnormal times I should produce results to be regretted, as my principal purpose was to avoid conflicts between ourselves which would lead to our disunion and would make other nations believe that we were unworthy of having our own independent government. But I was not surprised that the *crassly ignorant, vulgar herd* believed that I acted in this manner to conceal those matters, when, in fact, I was only endeavoring to avoid hidden reefs dangerous to our cause, whose success should be placed far above all private interests.

He having received a telegram from Aguinaldo's secretary covering orders for the making of new tax lists from time to time, he said, in reference to them:

These successive changes in the taxes *excited the ignorant, vulgar people* who, on account of their very ignorance, attributed these changes to an attempt on my part and on the part of the heads of the towns to enrich themselves.

On account of this the *vulgar people* doubted the legality of our actions in the collection of taxes, and accordingly it became difficult. \* \* \* Not only did I make no report of this to the government of the Republic, on account of the abnormality of the present conditions, but I also succeeded in concealing them from the foreigners here, so they should not succeed in discovering the truth, which would be to the prejudice of our cause.

He also had complaint to make of some of Aguinaldo's military officers, charging that—

Maj. Canoy is such a remarkable character that he saw fit to give my cook a beating for not taking off his hat when he met him. He insulted the delegate of rents of Cabagan Viojo for the same reason. He struck the headman of the town of Bagarag in the face. He put some of the members of the town council of Echague in the stocks and he had others whipped.

These people, styled by their own governor a "crassly ignorant, vulgar herd," were the people of a portion of the Province of Luzon, the most advanced of all the islands in the Philippines, and should be a fair sample of the people we are now told are capable of self-government.

I have already pointed out that a member elected to Aguinaldo's congress could not serve unless his election was approved by him. It also appears that in many instances they were not permitted to have any election at all. Thus, in the very first congress which assembled there were 68 members elected and 68 appointed, some having been appointed by Aguinaldo in parts of the Philippines which had not yet been brought under his control. It was a very easy matter for the Government to control such a "representative" body. The congress which finally ratified the constitution consisted of 93 members. Upon a manuscript list found among the papers of the insurgents 81 of these members were divided into three classes: First, those who had been chosen by election; second, those chosen by selection; and, third, provisional members. Of the 81 members found upon this list, only 19 had been elected. And this was under the constitution held up to us by the majority of the Insular Committee as a model. It is merely the expression of a small group of educated natives. It never went into actual operation in any practical or effective way. Aguinaldo and a few men about him constituted the whole government and ran it as they pleased.

January 13, 1899, at 11.40 a. m., Gen. Noriel and Col. Callies, officers of Aguinaldo's army, sent a telegram "To the President

of the Republic Government, Malolos," saying among other things:

We also wish to know what reward our government is arranging for the forces that will be able first to enter Manila.

Aguinaldo replied:

Those who will be the heroes will have as their rewards a large quantity of money, extraordinary rewards, promotions, crosses of Blak-na-bato, Marquis of Malate, Ermita, Count of Manila, etc., besides the congratulations of our idolizing country.

Curious rewards to be bestowed by the president of a republic.

Even this Malolos government, so far from being successful financially, authorized a national loan of ₱20,000,000 at 6 per cent and the establishment of a bank in Manila to receive the funds. The bank was never established, and the proceeds of the loan were chiefly forced contributions. People known to have means were ordered to assemble and subscribe in proportion to their means. If they did not appear and subscribe, their lack of patriotism was reported to the president. Parish priests were called upon to invest church funds in the national loan. The governor of a Luzon Province telegraphed to Malolos requesting authority to put the rich men of his Province in jail until they subscribed. Documents captured from Aguinaldo's government in the Philippines contain memoranda sufficient to show that much more money was collected than ever reached the treasury; that unequal systems of taxation were enforced in different Provinces; and that the Tagalog Province, from which the officers of the central government came, received special favors in that respect. Cavite, the home of Aguinaldo, was taxed most lightly of all.

There is certainly nothing in Philippine experience prior to their participation in government under American control that affords any evidence of their qualification for self-government under republican forms. Everything indicates that they were not so qualified, for the leaders of that period were unwilling or unable to put republican principles into practice.

Mr. MURRAY. May I ask the gentleman from Pennsylvania what plan the gentleman believes in to give them experience and self-government?

Mr. OLMSTED. A large number of the municipal officers are Filipinos, and we have given them one branch of the legislature entirely. Let me show you how that works: The upper branch is appointed by the President of the United States; that is, the senate, or Philippine Commission, composed of nine members, five Americans and four Filipinos. The assembly is the lower branch and is composed of natives. The upper branch has frequently to check the action of the lower by refusing to adopt their bills. That causes some friction. As an instance of one of these bills, here is assembly bill 395, which passed the lower house December 27, 1910, but was laid on the table in the upper branch January 31, 1911, after the presentation of the report of the proper committee, showing the object and effect of the bill. I will print that report, together with a translation of the legal terms used.

Mr. QUEZON. Will the gentleman yield?

Mr. OLMSTED. I am sorry, but I have only 10 minutes left.

The effect of the bill, as explained by the committee, would have been to allow many persons guilty of rape and certain other specified offenses to go unpunished. Such crimes were to be considered and dealt with as offenses against the victim who might or might not institute proceedings, but not as public offenses or offenses against society. Is the gentleman from Virginia willing—would any gentleman be willing—to have that most horrible of offenses no longer subject to public prosecution? Should Filipino women be placed in that position? Was the passage of such an act through the lower branch a very high tribute to their capacity for self-government?

Mr. LAFFERTY. Did that bill pass?

Mr. OLMSTED. No; the upper branch, appointed by the President, refused to pass it.

Mr. MURRAY. Will the gentleman print the circumstances surrounding that bill?

Mr. OLMSTED. I do not know about the circumstances or what they were.

Mr. MURRAY. Whether it was debated?

Mr. OLMSTED. I do not know whether it was debated or not. I do know that it was passed by the lower branch, and that is enough.

Here is another bill, which passed the lower house, taking away from the judiciary all right of intervention in the selection of jurors for the trial of criminal causes and vesting that power in the political bodies known as provincial boards and with each person charged with crime himself to select one juror. The bill also proposed to increase the compensation of jurors above what is paid in any State of which I have knowledge. It would establish a set of professional jurors, elected by political influence, and render the administration of the criminal law a

farce. Such experiences as that in self-government do not show that they are as yet entirely qualified to select both branches themselves.

#### COMPARISON WITH SIAM.

The report of the majority of the Committee on Insular Affairs, in favor of the pending bill, sets up the Kingdom of Siam as the chief example "among the small countries whose independence, although preserved inviolate for ages, has never been guaranteed by international treaty or otherwise" of a country which "with no standing army has never fallen a victim to any land-grabbing nation," and as one "which maintains a stable, as well as an independent, government." Take notice that Siam is a monarchy, a kingdom. Nobody has ever dreamed that it was capable of self-government as a republic, in which the people themselves were to have some voice. But let us see how it succeeds as a kingdom. Siam is a sort of buffer State between British and French possessions. By an agreement made in April, 1904, between Great Britain and France each of those powers disclaimed any intention of annexing Siamese territory, and yet only three years later France claimed and now occupies some 7,000 square miles of Siamese territory. Two years after that Great Britain in some manner gained possession of and now occupies 15,000 square miles of what had been Siamese territory. Upon this point the committee might well consult the Statesman's Yearbook (1911). From that authority it appears that both France and Great Britain possess extraterritorial rights not only in their respective "spheres," but throughout the Kingdom of Siam. The International Encyclopedia, after bringing its account of Siam down to 1893, adds:

Since that time the French sphere of influence has been extended still farther west, and, were it not for Great Britain, doubtless France would absorb the kingdom. It remains a "buffer" State, whose future depends upon its powerful and mutually jealous neighbors.

Moreover, the statement of the Insular Committee that Siam has no standing army is not true, if we may trust the Statesman's Yearbook, which says:

Universal liability to military service upon the European model is now in force in all the Provinces [of Siam].

In December, 1911, a representative of the United States was present at the coronation ceremonies of the present King of Siam, and in his report, written by him without thought of use in this connection, he says:

I had the opportunity of seeing 26,000 Siamese troops in review and of inspecting the housekeeping of a battalion of the Royal Guard and of a visit to the national military academy.

The Siamese military academy has about the same number of cadets as we have at West Point. The Siamese army is larger than the United States Army was prior to the Spanish War, and we have never had 26,000 standing troops of the Army of the United States passing in review at any one time. But even this army, and whatever protection there may be in the jealousy of two great nations, has not prevented the Kingdom of Siam from losing 22,000 square miles of its territory. If this kingdom can not maintain itself and protect its possessions, its example does not furnish much encouragement for the setting up of a republic in the Philippines.

#### GREATER AVERAGE INTELLIGENCE AND EDUCATION REQUIRED IN A REPUBLIC THAN IN A MONARCHY.

No one will dispute the proposition that a successful republic, using that term in its modern sense, requires that there shall be not merely a handful of men of sufficient intelligence to govern, but higher averages of intelligence and education in the people at large and greater unity in thought and action than might be essential in some different form of government. Even if it could be found that the existence of the Philippines as an independent nation would be possible under a dictatorship or a monarchy it must be admitted by anybody who has studied their conditions that their existence as an independent republic like our own is impossible at the present time. When the thirteen American Colonies were organized into one Nation they had been practically self-governing colonies for a long time. The 3,000,000 of people which then constituted our population were people of the highest order of intelligence, far above that of the average of people of other countries. In forming this Union, under a republican form of government, they practically continued forms to which they had long been accustomed. But it would not and could not be so with the Philippines. This, the greatest of all republics, must desire that any republic which it helps to establish shall be worthy of the name and shall prove successful. Our Constitution, which has largely been copied into this proposed independence bill to be the constitution of the Philippines, was understood by and was applicable to our people at the time of its adoption, but it is not at all adapted to

the people of the Philippine Islands or, rather, they are not adapted to it. Comparatively few of them could read it even if it were translated into Spanish, and still fewer of them would understand it or be capable of participating intelligently in such a form of government.

The withdrawal of the United States from the Philippines would bring about conditions there worse than those existing to-day in Mexico. As I have already pointed out, the Tagalogs in and about Manila possess the most of the intelligence and education in the islands. The Visayans, however, outnumber them three to one and would naturally resent a Tagalog government, as this would surely be. The Moro Province has a few intelligent people, but is non-Christian and uncivilized. The Moros are satisfied to be governed by the United States, but would resent government from Manila.

When Secretary of War Dickinson visited the islands in 1910, he went to Zamboanga, and those Moros came in to greet him. He has very kindly presented me with a typewritten copy of a volume which is, in a certain sense, a diary, but which contains full reports of all speeches made by him or to him at public meetings of any kind. From that volume I extract the following speeches of some Moro leaders, as interpreted into both English and Spanish and stenographically reported:

Datu Mandi spoke as follows, his remarks being interpreted in English by Mr. Edward Schuck:

"I am here, El Raja Mura Mundi, representing the Moros. Here they are, the whole crowd of them, come to honor the Secretary of War. As I look about I see far more Moros than the Filipino contingent, and if that is so, that is the reason it is called the Moro Province." [Tremendous applause from the Moros.]

"When first the Americans came here, from the very beginning, whatever they asked me to do I did. I was loyal to them ever. Now I have heard a rumor that we Moros are in the hands of the Filipinos."

"In the Spanish times I was a datu (when the Spanish left this became a republic). Then I saw and found out that things did not go well. When a man had two measures of rice one was taken from him; when a man had two head of cattle one was taken away from him." [Applause by the Moros.]

"If the American Government does not want the Moro Province any more they should give it back to us. It is a Moro Province. It belongs to us." [Tremendous applause by the Moros.]

Datu Sacaluran spoke as follows:

"I am an old man. I do not want any Moro trouble. But if it should come to that, that we shall be given over to the Filipinos, I still would fight." [Applause.]

Ulanakaya Ujaton said:

"I am not a civilized man, but I have learned the slavery, killing, and stealing is a bad thing. We do it no more. But, if that it should be that we shall be given over to another race, we had better all be hanged." [Applause.]

Nadji Nungun spoke as follows:

"I want to tell the Secretary of War that I am a Samal. I come from the Samal race. The Samal race—in former days there was not a worse race than the Samal race, and that was in the olden days. Ever since the Spanish times up to now we have learned different."

"The Secretary of War must look the matter in the face. We are a different race; we have a different religion; we are Mohammedans. And if we should be given over to the Filipinos, how much more would they treat us badly, when they treated even the Spanish badly, who were their own mothers and their own fathers in generation? How did they treat them? Think about it! Think twice! We far prefer to be in the hands of the Americans, who are father and mother to us now, than to be turned over to another people." [Applause.]

A set of resolutions was at the same time presented to the Secretary of War, setting forth that "Moro Province is inhabited by many races and different tribes, with differences in religion, customs, and habits, with a varying degree of civilization," and, further, that "We have the best form of government possible under existing conditions, and we want no changes at the present time."

What would be the condition of the United States to-day if we were under guaranty to protect Mexico from domestic violence, as well as from foreign invasion, just as this bill provides that we should be under guaranty to protect the proposed Philippine Republic? And can anybody doubt that in less than six months after the passage of that bill conditions in the Philippines would be pretty much on a par with those now existing in Mexico? The United States could not under any circumstances sit idly by and see those tribes and peoples fighting among each other; nor could it, either before or after the expiration of the eight-year period, permit any other power to war upon and seize them. By withdrawing all our authority over them, as this bill proposes—save only in the matter of vetoing their public legislation—we should destroy our own power to maintain peace and good government, while our responsibilities and our expenses would be even greater than they are now.

#### SUMMARY.

The people of the United States will never consent to the establishment of an oligarchy, a monarchy, or any form of independent government other than a republic in any possessions over which the American flag now floats.



A republican form of government, to be successful, requires a greater degree of intelligence in the people than does a monarchy.

In a country where the well-educated, or "directing class," constitute less than 2 per cent of the entire population and wholesale illiteracy prevails among the others, it would be impossible to conduct a government "of the people, by the people, for the people." It would be an utter failure and would soon "perish from the earth." [Applause.]

Under American control the Filipinos are prospering and have greater participation in government than they ever enjoyed before and all that they are at the present time capable of exercising.

The present government of the Philippines is wise, economical, and self-sustaining.

The Filipinos are making good progress under American control and, given sufficient time, may become, but are not now, fitted for self-government.

The passage of the pending bill would destroy American authority in the islands, and at the same time increase the responsibilities and expenses of the United States.

Whether we like it or not, the responsibility for the Philippines rests upon us.

The passage of this bill would be an attempt to shirk responsibility; it would not succeed, but it would be an act of abject cowardice and of the extremest folly. [Applause.]

The following are the documents referred to in the foregoing remarks:

IN THE DISTRICT COURT OF THE UNITED STATES FOR PORTO RICO.

Hermilio Diaz Navarro and Cayetano Coll y Cuchi, complainants, v. Regis H. Post, governor of Porto Rico; Samuel D. Gromer, treasurer; and George C. Ward, auditor of Porto Rico, respondents. No. 655, equity.

Rodey, judge, delivered the following opinion:

This is a bill in equity filed by complainants, alleging themselves to be members of the House of Delegates of the Fifth Legislative Assembly of Porto Rico and citizens and taxpayers of the island, against the above-named respondents as such officials of the local government. The cause was originally filed in an insular court, but was removed by respondents to this court, and held here against a motion by complainants to remand after a full hearing in that behalf. Complainants pray that the governor, treasurer, and auditor of the island be enjoined from paying out of the treasury of Porto Rico, as it is alleged they are doing, money to sustain the Government of Porto Rico during the present (1909-10) fiscal year in a pretended compliance with the act of Congress of July 15, 1909, known as the Olmsted bill. They contend that this act of Congress simply reenacted and extended the appropriation bills of the island of March 12, 1908, for another fiscal year, to end June 30, 1910, and allege that instead of complying with its terms the executive council held a meeting, and by itself, without the concurrence of the house of delegates, fixed the salaries not fixed in the organic act of all officials, employees, etc., of Porto Rico, and that thereafter the governor by himself alone allotted moneys to different funds as he desired, and that such money is now being paid out without authority of law, etc.

The respondent officials contend that the Olmsted law simply appropriated "an amount equal to the sums appropriated in the last appropriation bills for the purpose of supporting the government until the legislative assembly shall act in the premises," and that in the meantime it is simply the duty of the executive council and respondents to do what they have done.

The issue between us is raised by a demurrer interposed by the respondents to the complaint, in which it is alleged (1) that complainants have not in law stated a cause of action; (2) that they have failed to show that they suffer any injury or damage because of the doing of the acts complained of; (3) that they have not shown any special interest in the result of the action they complain of different from the interest of other taxpayers; (4) that they have failed to show that the result to them would be any different if respondents should act in accordance with complainants' theory of the interpretation of the law in question; (5) that a reading of the bill and a reading of the laws referred to will demonstrate that respondents' actions are in all respects proper and legal; (6) that complainants have failed to show that their individual condition as taxpayers would be worse or more burdensome because of the acts complained of; and (7) that they have failed to show that they have any personal interest in the matter in controversy, or any such interest as would entitle them to relief in a court of equity, and that for each and all of these reasons the cause should be dismissed, etc.

The bill, of course, fully sets forth, and it is now so commonly known in Porto Rico and throughout the Nation as that the court would in any event take judicial notice of it, that the Fifth Legislative Assembly of Porto Rico at its recent session beginning January 11, 1909, adjourned on the 11th of March following without having made any appropriations to sustain the government of the island for the ensuing fiscal year (1909-10), and again failed to do so after being immediately called in special session on March 12 by the governor for that purpose, and finally adjourned on March 16, 1909, without having done so. This failure naturally brought on a crisis in the island's affairs and caused the President to send a special message to Congress on the subject under date of May 10, 1909, and also induced Congress, under date of July 15, 1909, to amend section 31 of the organic act of the island, commonly known as the Foraker law (31 Stats., 77), by adding the "Olmsted bill" as a proviso thereto, the material portion of which amendment is as follows:

"And provided further, That if at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purpose shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid."

The bill then goes on to state that on the 20th of July, 1909, immediately after the approval of said amendment to the organic act by the President of the United States, the Executive Council of Porto Rico held a meeting, and by itself alone—the house of delegates not then being in session—passed the following resolution:

"Whereas section 36 of the act of Congress entitled 'An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes,' approved April 12, 1900, provides that the salaries of all officials of Porto Rico not appointed by the President, including deputies, assistants, and other help, shall be such and be so paid out of the revenues of Porto Rico as the executive council shall from time to time determine; and

"Whereas the salaries of all officials of Porto Rico not appointed by the President, including deputies, assistants, and other help, have not been fixed by the executive council, nor the manner of their appointment out of the revenues of Porto Rico been determined for the fiscal year ending June 30, 1910; and

"Whereas it is necessary that such salaries and the method of their payment be determined: Now therefore be it

"Resolved by the Executive Council of Porto Rico:

"(1) That until otherwise provided all officials of Porto Rico not appointed by the President, including deputies, assistants, and other help, for the fiscal year ending June 30, 1910, and their salaries, shall be such as were in effect on June 30, 1909, and said salaries shall be paid monthly by the treasurer of Porto Rico upon the warrant of the auditor, countersigned by the governor.

"(2) This resolution shall be deemed to be in force and effect from and after July 1, 1909."

It then proceeds to complain that this action of the executive council in thus fixing the salaries of all the officials of the island not appointed by the President, and providing for the mode of payment thereof, was in open disregard and in plain violation of the Olmsted law aforesaid, which law, as complainants contend, simply provided that the appropriations for such purposes made by the second session of the Fourth Legislative Assembly of Porto Rico should remain in force for the succeeding fiscal year to end June 30, 1910, and providing for the payment thereof by the treasurer with the advice of the governor alone.

The bill also alleges that in accordance with said resolution the auditor has drawn warrants for and the treasurer has paid all such salaries, expenses, etc., not by authority of said Olmsted law or in compliance therewith, but against the expressed terms thereof, and that said officials intend to and will continue to do so, etc. It is next further set out that respondent, Regis H. Post, governor as aforesaid, after the enactment by Congress of said Olmsted law, and after such fixing of the salaries of the officials by the executive council did, as before stated, alone and by himself, without the concurrence of the legislative assembly, make a number of appropriations or allotments of money to different funds to carry on the government of Porto Rico, all of which allotments it is alleged are wholly illegal and without authority of law; and that respondents, Gromer and Ward, treasurer and auditor aforesaid, are allowing, permitting, and taking part in such illegal appropriations, allotments, and payments, all contrary to law, etc.

Complainants then set forth that they have a right to oppose this illegal expenditure of their taxes and of the moneys of the people of Porto Rico, and that if the same is permitted to continue complainants will be deprived of their rights and great damage will be caused to them as well as to the rest of the taxpaying community, and that they have no adequate remedy at law, and are therefore obliged to appeal to this court of equity, in which they pray for proper relief, and that respondents be enjoined, etc., and that no payments from the treasury of Porto Rico be permitted save under the appropriation bills of the fourth legislative assembly of the island that was made for the fiscal year ending June 30, 1909, etc.

As we understand the contention between the parties it is this: Complainants claim that this "Olmsted law" should be construed as if instead of saying "an amount equal to the sums appropriated in the last appropriation bills for such purpose shall be deemed to be appropriated," it read, "the several appropriation bills for the previous fiscal year shall each be considered as specifically reenacted and severally continued in force."

On the other hand, the respondents, as we understand it, contend that the language used simply means that an amount equal to the sum of the total appropriations for the support of the Government for the previous fiscal year shall be deemed to be appropriated, and that then the treasurer, with the advice of the governor, may make all payments necessary to support the Government until the legislature shall act.

To be frank about it, we can not see that there can be much difference in the result, because on examining the appropriation bills referred to—Session Laws, 1908, pages 44 et seq.—we find that the very largest portion of the appropriations for that year consist of money for salaries and expenses and for the carrying out of the regular, indispensable functions of the Government, but that still there is quite a fraction of the appropriations that might be said to be for the carrying on of the Government during that fiscal year which would be unnecessary the succeeding year, such, for instance, as a \$30,000 appropriation for election purposes, when there is no election to be held this year, but if complainants' contention is right and the revenues should prove to be insufficient the present fiscal year to do all the things for which appropriations were made last year some of the ordinary functions of the Government might have to fall of being carried out, while as to others most or the whole of the particular appropriation would remain unused in the treasury, without power in anyone to apply the money to those necessary governmental purposes. It is hardly to be presumed that Congress, while trying to relieve a crisis, should so phrase a statute as to accomplish only a portion of what was intended.

We have been urged to resort to the debates in both Houses of Congress, pending the passage of this "Olmsted law," with a view to determine what the intention of Congress really was, and complainants contend that these debates establish their view of the intention of Congress beyond any question. We have done so, and confess the labor was unprofitable. It is, of course, well known that while courts may resort to the history of the times and to an examination of the conditions that necessitated the passage of a law, and may consider the mischief that was to be remedied, so as to be able to understand the object and meaning of the legislature if the act in and of itself is ambiguous, still it is not proper for a court to resort to or to be bound by the individual views of legislators as expressed in debates during the passage of the law. Such action is universally held to be improper. (See Lewis, Sutherland Statutory Construction, 2d ed., vol. 2, sec. 471; also our opinion in the *Vallecillo v. Mandry* *c. Bertram* case, 2 P. R. Fed. 53; *United States v. Oregon* & C. R. Co., 57 Fed. 426; *Carter v. Hobbs*, 92 Fed. 595; *Fay v. City of Springfield*, 94 Fed. 421; *United States v. Union Pacific R. R. Co.*, 91 U. S., 79; *District of Columbia v. Washing-*



ton Market Co., 108 U. S., 243; United States v. Freight Association, 166 U. S., 291; and Dewey v. United States, 178 U. S., 521.)

In looking into the history of this sort of legislation we find that a somewhat similar provision appeared—so far as we can ascertain for the first time in our national legislation—in the organic act for the Territory of Hawaii in the year 1900 (31 Stats., 150). Section 54 of that act contains a provision that is not difficult to understand. It reads as follows:

"That in case of failure of the legislature to pass appropriation bills providing for the payments of the necessary current expenses of carrying on the government and meeting its obligations as the same are provided for by the then existing laws, the governor shall, upon the adjournment of the legislature, call it in extra session for the consideration of appropriation bills, and until the legislature shall have acted the treasurer may, with the advice of the governor, make such payments, for which purpose the sums appropriated in the last appropriation bills shall be deemed to have been reappropriated."

The next place where this sort of a provision of law appears is in section 7 of the organic act of the Philippine Islands, passed in 1902 (32 Stats., 694). This particular section of the Philippine law was amended and reenacted on February 27, 1909, but it appears that no change is made in the portion of the section that we are here discussing. The provision we refer to regarding the continuance of appropriations for the support of government where the legislature adjourns without making the same is word for word as the Olmsted law, supra, when first introduced in the House at the recent session of Congress, although in the Olmsted Porto Rican law before it was finally passed the word "session" in the first line was stricken out and the words "fiscal year" substituted, and the words "for the ensuing fiscal year" were inserted after the word "government" in the second and third line, so that the Olmsted law now reads as first above set out: "That if at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made, etc."

It will be noticed that Congress, in the Hawaiian act, said, "for which purpose the sums appropriated in the last appropriation bills shall be deemed to be reappropriated"; and two years later, when legislating for the Philippines—although this provision of the Hawaiian act was before it—the language used was entirely different, and instead Congress said: "An amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed as appropriated."

It will be noted (supra) that there is another slight difference between the Philippine provision and the Olmsted law, in that in the former the word "purposes" is used in the plural twice, while in the latter it is singular when first used and plural when last used. Now, it is manifest that Congress deliberately worded the Philippine provision different from that of the Hawaiian for reasons that no doubt seemed sufficient, and probably omitted putting in such provision in the Porto Rican original organic act (Foraker law), although it was passed the same year as the Hawaiian Act, because no doubt it was thought there would be no need for it in the case of a people so advanced as the Porto Ricans were believed to be.

We would have no difficulty in sustaining the view complainants take of the Olmsted law in the case at bar if the language used was the same as that used in the Hawaiian Act, but not so when we consider the language that actually is used, that "an amount equal to the sums appropriated in the last appropriation bills for such purpose shall be deemed to be appropriated," which is quite different from saying "for which purpose the sums appropriated in the last appropriation bills shall be deemed to have been reappropriated."

When we attempt to ascertain the object of the passage of such a provision at all, even if we did not possess or could not take judicial notice of the knowledge before referred to of the recent action of the local house of delegates, the very language of the Porto Rican provision would indicate that its object is to prevent the hampering or stopping of the government in any manner.

Gov. Taft, of the Philippine Commission, now President of the United States, in a letter to Representative COOPER, of the House of Representatives, written from Cincinnati, Ohio, on May 13, 1902, on the eve of his departure for Rome, used this language, as same can be seen on page 471, part 8, volume 35, CONGRESSIONAL RECORD, Fifty-seventh Congress, first session, Appendix:

"A provision that appropriations shall not fail because of any obstruction in the popular assembly will prevent its being made an instrument for choking the government."

And in the same RECORD, on page 628, Representative CRUMPACKER states that Gov. Taft, in an article in the Outlook of date the 31st of May, 1902, previous, when referring to the Philippine Islands, stated that "danger from obstruction of the government by withholding supplies is avoided in a section of the House bill by a provision that should the appropriation bills not be passed, appropriation equal to those of the year before shall become available without legislation." President Taft, in his message to Congress of May 10, transmits therewith Secretary Ballinger's report recommending that the organic act of Porto Rico be amended to automatically provide in such cases an appropriation equal to the sums appropriated in the last appropriation bills for such purposes until the legislature shall have acted.

After the examination we have given the subject, we are of opinion that the clear intention of Congress in wording the Olmsted bill as it did was because it well knew that at best one year's appropriations can not be made to exactly fit the requirements of another year, and therefore it is thought best to appropriate a lump sum equal to the total of the previous year for the support of the Government, leaving it to the discretion of the governor to reallocate or subdivide this money from time to time to support the Government until the legislature shall act.

The attorney general of the island has submitted to us as part of his argument in this case his letter to the governor of Porto Rico of July 19, 1909, in response to a request for his opinion as to the manner in which the act in question ought to be construed. After the examination we have made of the subject before us, we are constrained to conclude that the attorney general, in the painstaking effort which he made to properly advise the governor in the letter referred to, is right in his conclusions, and we can not better express the views he presented to the governor than by quoting his own language, which is as follows:

JULY 19, 1909.

THE GOVERNOR OF PORTO RICO, San Juan.

SIR: Pursuant to general conversations heretofore had between us and in participation with the auditor, the treasurer, and the secretary of Porto Rico, referring to the construction to be put upon the act of Congress approved July 13, 1902, hereinafter quoted in part, and having to do with the provision made by Congress for the support of the Porto Rican Government when the legislature shall have failed to pass the regular appropriation bills for that purpose, and, at your suggestion

that I render an official opinion in answer to the various inquiries which arose during our conversation, I beg to say:

I have before me the act in question as it passed the House of Representatives June 7, 1909, printed and attested by the Clerk and Chief Clerk of the House of Representatives. I also have a copy of the telegram to you from the Chief of the Bureau of Insular Affairs of the War Department, purporting to quote the act as approved. I note certain small differences between the text of the act as printed and the act as transmitted by wire to you, and though these differences are of slight importance, I shall assume, for the purposes of this opinion, that the printed copy is more apt to be exactly correct than the copy transmitted by telegram, particularly in view of the fact that the telegraphic dispatches from Washington on July 8, and printed in our local press, have stated that the act in question passed the Senate without amendment. The part of the bill to which this opinion relates amends section 31 of the Foraker Act by adding the following proviso:

"And provided further, That if at the termination of any fiscal year the appropriations necessary for the support or government for the ensuing fiscal year shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purpose shall be deemed to be appropriated, and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid."

I have tried to reach a correct conclusion as to exactly what was meant by the language employed. It is open to two possible constructions—one being to the effect that Congress intended to reenact last year's appropriations; another to the effect that Congress intended to make one appropriation only, in amount equal to all of the appropriations of last year, constituting one lump sum, to be expended by the treasurer, with the advice of the governor, for the support of the Government. I adopted, after painstaking consideration, the latter construction, and I am led to that conclusion by many considerations which I shall in part state.

In the first place, "sums of money are not appropriated, but, in the language of the act, "an amount equal to the sums appropriated in the last appropriation bills." It is a well-known canon of statutory construction that language is to be construed in its ordinary significance, and applying that canon to the language of this act, I am constrained to believe that Congress appropriated "an amount" and not "sums." Furthermore, if it had been the intention of Congress to reenact for each of the activities of government the sums appropriated last year for those purposes, the obvious, easy, and natural thing for Congress to have done would have been to use appropriate language to that effect; for instance, "amounts equal to the sums last appropriated shall be deemed to be reappropriated," or "the appropriation bills of the preceding fiscal year shall be deemed to be reenacted." But, on the contrary, Congress, in using the language first herein quoted, has made it clear, as it seems to me, that the "purpose" is the support of government and that the appropriation is of an amount sufficient to accomplish that purpose, which amount is to be subdivided into appropriate allotments, corresponding to the necessities of each department and activity of the government as provided by law. In further support of this view, it may not be improper to call attention to the fact that the language of this proviso was first enacted into law by the Congress of the United States in legislating for the Philippine Islands and in anticipation of a possibility that the Legislature of the Philippines might fail to agree upon the appropriation bills necessary for the support of government, and it seems reasonable that the Congress appreciated that the necessities of government vary for different branches from year to year and that it would be inexpedient to limit the sums to be spent in one fiscal year for each department or branch of the public service to the amounts which had been deemed by the legislature appropriate to the necessities of a different year. The Congress, therefore, in order to give to the provision sufficient flexibility to adapt it to the new and different necessities of the government, preferred to appropriate one total amount, rather than specific sums, for each of such services. Likewise the Congress of the United States, in disposing of the situation which had actually arisen in Porto Rico, seems to have concluded that it would be best to employ the same language as had been employed in the case of the Philippines to meet a possible contingency and for like reasons. I therefore conclude that the intention of Congress was to make one appropriation only, applicable to the necessities of government, to be allotted in a manner best adapted to the requirements of the fiscal year to each one of the services of the government as should prove requisite.

Passing now to the machinery which has been provided by Congress to ascertain what sums are to be thus allotted to the different departments of the Government, I quote from the latter part of the proviso: "And until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid." In the first place, it is plain that the legislature may, at any time when it can lawfully assemble, take this whole matter out of the administrative powers of the Government by passing regular appropriation bills. Until such time, however, as the legislature shall do so, I am of the opinion that it was the intention of Congress to substitute the discretion of the governor for the discretion of the legislature in all cases where legislative enactment would otherwise have been necessary by the Legislative Assembly of Porto Rico. I call your attention to the fact that the word "advice" is the same word employed in the Constitution of the United States in many places; for instance, in Article II, section 2, of the Constitution of the United States it is provided that the President shall have power, by and with the advice and consent of the Senate, to make treaties. Under such provisions of the Constitution it has been regularly held that the advice and consent of the Senate is absolutely necessary to effectuate a treaty. The same provision is found in the Constitution in regard to presidential appointments to office, and the same rule has been applied.

I conclude, therefore, that with respect to all expenditures requiring legislative enactment under the Foraker Act the governor's advice takes the place of a legislative enactment, and that it is incumbent upon the governor to authorize the expenditures for all such purposes.

In order to ascertain where the governor's powers in this regard begin and end I have to call to your attention the language of section 36 of the Foraker Act, which says: "That the salaries of all officials of Porto Rico not appointed by the President, including deputies, assistants, and other help, shall be such and be so paid out of the revenues of Porto Rico as the Executive Council shall from time to time determine." In the same section are fixed the salaries of the officials appointed by the President, and the section further provides that all these salaries, together with the expenses of the offices of the various officials of Porto Rico appointed by the President, shall be paid on the warrant of the auditor countersigned by the governor.

In the matter of salaries, therefore, it is plain that the Executive Council had been constituted with full legislative power to fix all salaries not fixed by the Foraker Act itself, and it is incumbent upon that



body to so fix said salaries and the manner of their payment in order to legalize salary payments for the fiscal year 1909-10. The Foraker Act, however, does not clearly make provision for the ascertainment of and payment for the various expenditures outside of salaries, which matters must be deemed to have been included in the general legislative authority of the Legislative Assembly of Porto Rico granted in section 32 of the Foraker Act. These amounts, therefore, will require approval or advice for payment by the governor of Porto Rico. It is not stated in the Olmsted Act that the governor shall give his approval or advice at any particular time. In order, however, to have this opinion constitute an answer, so far as possible, to the various inquiries which arose during the conversations before referred to, I beg to suggest that it would seem expedient that, in a tentative form, subject to modification from time to time, the governor ought in a general way to indicate to the various heads of departments and governmental services the amounts of money which he deems expedient to allow to be spent for such services, having in view, of course, not only the necessities of the various services themselves, but also the condition of the public treasury and the incomes from all sources available for such purposes. In addition to such general and tentative indication by the governor, it seems to me that the governor ought, in countersigning the warrants provided by the Foraker Act and by the political code, to add suitable words over his signature to the effect that he advises payment thereof, which advice would be necessary to finally legalize such payment.

The most difficult question which occurs to me and which arose in our discussion of these matters is this: How far is the governor under existing laws required to approved expenditures for matters which have been authorized by law? It may be that my answer to this question will not be as comprehensive as it ought to be, because it may be that these questions will, in large part, have to be settled as they arise from time to time. In a general way, however, I beg to say that the Foraker Act, being the fundamental organic law of Porto Rico, must in all cases be complied with. Matters, however, which have been authorized by the laws of Porto Rico are subject to the will of the legislative assembly, for whose will for the time being the opinion of the governor seems to have been substituted. I believe that the sanction of the legislature for certain activities of the government must be regarded as of persuasive rather than mandatory force, and that if the governor finds that available funds are insufficient to provide for the continuance of all of the lawful activities of the government for the whole fiscal year, responsibility will rest upon the governor to choose therefrom for elimination such matters as in his judgment are not absolutely necessary for the support of government.

I do not believe that Congress intended in any way to amend provisions of the organic law or the political code for the payments of money, and that they still require the warrant of the auditor countersigned by the governor, and I recommend that every expenditure receive not only the countersignature of the governor but his advice for payment.

I hope that this opinion will be sufficient guide both to you and to the fiscal departments of the government to meet all present requirements and unforeseen questions can be dealt with from time to time as they arise.

Respectfully,

H. M. HOYT,  
Attorney General.

We are therefore unhesitatingly of the opinion that on the merits of the case complainants have no cause of action, even on their own showing, no injuries being done; no money is being misappropriated, but the Olmsted law, in our opinion, is being carried out honestly according to its terms. We are utterly unable to bring ourselves to the belief that the amendment in question can be either construed or administered as contended for by complainants without bringing about a situation nearly as complicated as the one which forced Congress to take action. But apart from all this we desire to say that we have only gone into the subject thus far with a view in so far as may be to end this useless and annoying interference with the conduct of the government of the island of Porto Rico, which Congress has established and which it intends shall be carried on.

We believe that it is the law that no private citizen or taxpayer—and that is all that these complainants are, because their allegation that they are members of the house of delegates adds nothing to their right to sue in this court—has any right to sue or enjoin the State (insular) officials, or to in any manner impede or hamper them in the exercise of their official functions. (See *Mechem on Public Officers*, secs. 954, 987, 988.) There may be cases where one or more taxpayers—and that is all these complainants are—could mandamus State (insular) officials to perform mere ministerial duties, such as the delivery of a commission of a justice of the peace to the person entitled to it, as was there held in *Marbury v. Madison* (1 Cranch, 137), but we have not found a single case that authorizes a mere taxpayer as such to enjoin the governor of a State. One of the common provisions of all State constitutions and of the organic acts of Territories regarding the governor is that he shall see that the laws are faithfully executed, and section 17 of the Foraker law regarding Porto Rico is no exception to the rule. In addition it appears that the President may in his discretion delegate and assign other executive duties and functions to him. So it may not be amiss to call attention to the fact, as appears from the record, that the President, through the Secretary of War, on the very day of the enactment of the Olmsted law cabled the governor directing him to make the appropriations under the provisions of the law. This would indicate that the President (Secretary of War) was of opinion that the governor had to make the allotments referred to.

When it was attempted in *Mississippi v. Johnson* (4 Wall., 475) to enjoin the President of the United States from carrying into effect an act of Congress on the ground that it was unconstitutional, the Supreme Court of the United States would not even permit the bill to be filed.

The arguments of Attorney General Stanbery in that case showed the fallacy of such an effort in such a way as that the court found no difficulty in agreeing with him and settling the proposition for all time under our system of government. See also *State of Georgia v. Stanton* (6 Wall., 50), where the same doctrine is extended to include the Secretary of State.

We have been unable to find authority for the proposition that the State (insular) officials can be enjoined from enforcing any law, even if the same is unconstitutional, but, on the contrary, find the law to be that such high officials can not be enjoined for what is in the mere opinion of the same complainant a misappropriation of public funds. The language of Judge Dunbar in the well-considered case of *Jones v. Reed*, in the Supreme Court of the State of Washington (27 Pac., 1069),

where the effort was to enjoin the State auditor, is very apt in this regard, and it is as follows.

"As the fallacy of a proposition can best be shown by distorting it, we may presume that if one of the departments of the State government can be suspended at the instance of a private citizen who has nothing more than a community interest in a matter which concerns the general public, that every department of the State can be suspended at the same time, and the whole machinery of the Government stopped, and the very existence of the State, so far as the existence of its functions are concerned, destroyed. Surely such a theory of practice is not in harmony with the genius of our Government, nor will authority sanction or public policy permit the adoption of a rule which will authorize any number of volunteers who may rightfully or wrongfully interpret the laws different from the interpretation put upon them by the officers of the State, to paralyze for the time every or any branch of the State government."

See also volume 6, *American and English Encyclopedia of Law*, page 1006, heading "Frame of government," and *idem*, volume 14, page 1106, heading "Governor," and notes.

In the *Jones v. Reed* case it was also held that under the laws of that State it was the duty of the attorney general and not the duty of private citizens or taxpayers to see that no misappropriation of the public moneys was made, and the court in that regard said:

"The law, then, having provided an officer for an especial duty, it is the better policy to submit such litigation to his guidance."

And is it not manifest from the letter of the attorney general of the island to the governor, as above set out, that the former is proceeding to the best of his ability to do his duty and to guide all concerned, so that the law will be properly administered?

In our opinion these officers deserve the support and commendation of all the people of Porto Rico for their faithful devotion to duty under trying circumstances, instead of being charged with dereliction of duty, as they are under the allegations of the bill in this case.

In our opinion it was a wise, proper, and legal act for the Executive Council to meet as it did and pass the resolution it did fixing the salaries of the officials, because that removes all doubt about the matter of the amount of such salaries for the present fiscal year. The salaries fixed by Congress require no appropriation. See *Rotwitt v. Hickman*, State treasurer (23 Pac., 740). The allotments of money the governor is making are, in our opinion, legal and proper, for we agree with the Attorney General that the Olmsted law, by its terms, for the purpose of the present and similar occasions, has substituted his discretion for that of the legislative assembly. We think there are inherent powers in the Executive Council even under our system of government that can be exercised to preserve the government itself, as there is no courts to preserve their own existence. See our opinion in *Seaville et al. v. Hadley*, auditor (F. R. Fed., 457).

Were it not for the space it would occupy we could with profit quote extensively from the lucid opinion of Judge Dunbar, from which we have only made short extracts, for its reasoning leaves complainants here without right to be here with their bill.

It must not be forgotten that we are speaking of the State (insular) government, and whatever the rule may be as to the right of a taxpayer, especially when he can show an interest in himself different and more burdensome than that of the rest of the community, to enjoin municipal officers of cities, towns, villages, or of corporations, the rule does not go, nor could it in justice, in our opinion, under our system of government go to the extent of permitting mere taxpayers to enjoin State officers or the governor in the performance of their functions. The only instance in which any language of the Supreme Court of the United States could be said to lean toward complainants' contention as to the right of a taxpayer to enjoin State officers is found in the case of *Crampton v. Zabriske* (101 U. S., 601), but Judge Dunbar, in the opinion we are here quoting from, considers that contention and plainly shows that the language used by Mr. Justice Field will bear no such construction. What interest have these complainants shown that they have in the matter in controversy here other than that of any other taxpayer? The action of the officials sought to be enjoined, even if it was wrong, would not result in any heavier burden to them as taxpayers. No more money than the sum total of the last appropriation bills can or will be spent for any purpose; hence where are complainants injured—or anybody else for that matter? Where have complainants any personal interest in that sense in this controversy? Where have they any interest other than that of mere intermeddlers? A complainant in such a case as this must show that he is personally interested in some manner other and different than are the others in the community and that he is being deprived of his property without due process of law. (See *Tyler v. Judges Court of Registration*, 179 U. S., 405; *Caffrey v. Oklahoma Territory*, 177 U. S., 346; *Turpin v. Lemon*, 187 U. S., 51.)

The jurisdiction of a court can only be invoked by a party having a personal interest in the litigation. (*Sherman v. Bellows* (Oreg.), 34 Pac., 549; *State ex rel. Taylor v. Lord* (Oreg.), 43 id., 471; *Smith v. Indiana*, 191 U. S., 138; *Braxton County Court v. West Virginia*, 208 U. S., 192; *McCandles v. Pratt*, 211 U. S., 437.) And only where the complainant has a real legal right to the relief sought can he maintain such a suit or will the relief be granted. (*National Life Ins. Co. of U. S. v. National Life Ins. Co.*, 209 U. S., 317.)

In cases where even a question of law, as well as a question of fact, is committed by Congress to the judgment and discretion of the head of a department his decision therein is conclusive. (*Bates & Guild v. Payne*, 194 U. S., 106.)

It seems to us that the present is a case wherein we can without impropriety refer to the holding of the Supreme Court of the United States regarding the action of the governor of the State of Colorado with reference to Mr. Moyer (212 U. S., 79), "that public danger warrants the substitution of the executive for the judicial process, and the ordinary rights of individuals must yield to what the executive honestly deems the necessities of a critical moment." Surely a time in Porto Rico's history when, for failure of the local assembly to act, Congress was forced to pass the Olmsted law can be said to be critical.

It would hardly become this court, cognizant as it is of the revolutionary action of the recent local house of delegates (see our opinion in contempt cases in 4 P. R. Fed., p. 476), of which these very complainants were active members, to resolve any doubts in favor of their views in an effort to further hamper the executive departments of this island in what appears to be the latter's honest efforts to carry on the government under the act which complainants themselves by their own willful delinquency help to make it necessary for Congress to enact.

We therefore hold that complainants have no cause of action at all; that they have no right to file this suit; that they have shown no special interest in the matter; that in any event they could not thus



stop or hamper the government, and especially is this so as to the governor of the island. We further hold that on the merits of the case the governor and the officials are, as matter of law, construing the Olmsted law properly, and so far as the allegations show are acting rightfully under it.

The demurrer will therefore be sustained, and the case dismissed at cost of complainants.

B. F. RODEY, Judge.

[Extract from report of committee on assembly bill 395.]

REPEAL OF THE LAW PROVIDING FOR PUBLIC PROSECUTION OF CRIMES OF ADULTERY, RAPE, SEDUCTION, ETC.

A. B. 395. An act amending act No. 1773, entitled "An act to provide for the public prosecution of the crimes of adultery, estupro, rapt, violacion, calumnia, and injuria, to abolish the right of pardon by the aggrieved party in such cases, to provide for a special civil action for damages therein, and for other purposes," restoring, with amendments, certain provisions of the Penal Code of the Philippine Islands on this subject.

Passed by the assembly December 27, 1910; laid on the table by the commission January 31, 1911.

The following extract is taken from the report of the committee of the Philippine commission (senate) on matters pertaining to the department of finance and justice:

"By the passage of the assembly bill, act 1773 would be entirely repealed, with the exception of section 3 thereof, which refers to the right of the aggrieved person in the offenses mentioned in said act to bring a civil action. Act 1773 provides that the crimes of adultery, estupro, rapt, violacion, calumnia, and injuria shall be deemed public crimes, it being provided, however, that no prosecution for the crimes of adultery, estupro, and injuria against persons other than public officials or employees shall be brought except upon complaint of the aggrieved person or of the parents, grandparents, or guardian of such person.

"With the provisions of the penal code reestablished, as they would be by the passage of the assembly bill, no prosecution for the crime of estupro could be brought except upon complaint of the aggrieved person, or of the parents, grandparents, or guardian of the aggrieved person; none could be brought for the crime of adultery except upon complaint of the aggrieved spouse; and none for the crime of injuria except upon complaint of the aggrieved party, save when the offense is committed against a public official or employee.

"A necessity was felt for the enactment of act 1773. Many persons aggrieved by the commission of these offenses appealed to the prosecuting officer, asking for the prosecution of the offenders, but under the provisions of the penal code no action could be taken. To reestablish now the provisions of the penal code with reference to these crimes would mean that many offenders would go entirely unpunished, since in many instances the aggrieved persons would not be able to pay the expense of a private prosecution, and in many other instances would not care to take the trouble or stand such expense.

"The assembly bill would also reestablish the provisions of the penal code providing that pardon by the offended person extinguishes the criminal liability in the above-mentioned offenses of adultery, estupro, rapt, violacion, calumnia, and injuria. Section 2 of act 1773 contains a provision to the contrary which tends to remedy the abuses and evils which pardon by the aggrieved person in the above-mentioned offenses encourages."

Translation of terms used in report of committee. These offenses all come under what is known as crimes against honor.

The definition given first is the preferred, in the meaning of the penal code. The others are proper definitions in the generally accepted understanding of the words:

Estupro:	Calumnia:
1. Seduction.	1. Calumny.
2. Rape.	2. Slander.
3. Ravishment.	Injuria:
4. Constupration.	1. Insult.
Rapto:	2. Injury.
1. Abduction.	3. Wrong.
2. Rape.	4. Offense.
Adulterio:	5. Outrage.
1. Rape.	6. Damage.
2. Violation.	Adultery.

Mr. FLOOD of Virginia. Mr. Chairman, I yield 30 minutes to the gentleman from New York [Mr. REDFIELD].

The CHAIRMAN. The gentleman from New York is recognized for 33 minutes, 30 minutes yielded by the gentleman from Virginia [Mr. Flood] and 3 minutes, the time remaining within the control of the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. REDFIELD. Mr. Chairman, a prominent resident and local official of Ormoc, island of Leyte, writes, in September, 1912, as follows:

I have no patience with that element of my people who, in public speeches as government officials, or in our newspapers as writers and agitators, demand immediate independence. My town has a population of 38,000, less than 200 of whom, under the liberal system of qualifying, are entitled to vote. This may be considered a fair example of conditions in most parts of the islands where I have been, and speaks for itself. Would these advocates of independence place their business affairs in the untrained and unguided hands of their children? I am of the number who believe that the abandonment of the Philippines by the United States will be disastrous to us, and that if any change in our government is made it should be toward a smaller degree of autonomy.

Offering that, Mr. Chairman, without indorsing the last words, as an introduction to what I shall have to say, I ask unanimous consent to insert as a part of my remarks certain documents bearing upon the subject of the Philippines.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

Mr. JONES. Mr. Chairman, I would like the gentleman to indicate what the documents are which he wishes to put in the RECORD before consent is given.

Mr. REDFIELD. The documents are, one, a letter published in the New York Evening Post of January 29, 1913.

Mr. TOWNSEND. Signed by whom?

Mr. REDFIELD. Signed by Frank H. Clark, giving his experience in the islands. Another is the statement of the actual facts of the alleged illegal action on the part of Gov. Forbes in allotting appropriations. It is a comparative statement showing by bureaus the amounts allotted, and I offer it as an offset, Mr. Chairman—

The CHAIRMAN. Is there objection?

Mr. TOWNSEND. Mr. Chairman, I object.

Mr. JONES. By whom was the statement made?

Mr. REDFIELD. It is an official statement made in the Philippine Islands, and I offer it as an offset to what I shall endeavor to show was an entirely misleading and inaccurate statement made before the House by the chairman of the Committee on Insular Affairs, the gentleman from Virginia [Mr. JONES].

Mr. JONES. The gentleman states that the statement was prepared in the Philippine Islands. Has it been prepared there since the 28th of January and sent here?

Mr. REDFIELD. No; it bears the date of March 9, 1912. It was available to the gentleman, and I wish he had used it.

The CHAIRMAN. The gentleman from New Jersey [Mr. TOWNSEND] objects.

Mr. MURRAY. Mr. Chairman, I hope the gentleman will withdraw his objection.

Mr. MANN. Does the gentleman object to permission being granted to a Member to insert material matter in his speech?

Mr. TOWNSEND. But the materiality of the matter has not been proved or stated.

Mr. MANN. Nobody objected when the gentleman from Virginia [Mr. JONES] desired leave to extend his remarks in the RECORD.

Mr. MURRAY. Mr. Chairman, I hope we may get all the information on the subject we can.

Mr. TOWNSEND. Mr. Chairman, I never have asked permission in my life, but I withdraw my objection at the request of my friend from Massachusetts [Mr. MURRAY].

The CHAIRMAN. The Chair will put the request again. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD by printing the papers referred to. Is there objection?

Mr. JONES. Mr. Chairman, I ask the gentleman to state what other documents he proposes to insert. When I made my request, to which the gentleman from Illinois referred, I expressly stated what I wanted to publish, and I hope the gentleman will do the same.

Mr. REDFIELD. I will gladly do so if I have any other. At the moment these are all I contemplate publishing.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. REDFIELD. Mr. Chairman, I happened to pass through the House on the way to an important committee meeting on the 28th day of January last, when the distinguished chairman of the Committee on Insular Affairs held the floor. It was impossible for me then, because of a committee which was authorized, if not instructed, to sit during the sessions of the House, to remain; but I heard certain statements made respecting a gentleman I know and respecting a place I know which I think ought not to go unchallenged.

I propose here and now to challenge them both. But first of all I want my own attitude on this Philippine question to be clear beyond all doubt. I do not think that the American flag should continuously or long, as the lives of nations go, float over a dependent people. I believe, and have said it to the distinguished gentleman from the Philippines, that he and his people should be as free as I. I seek for my own son no freedom I do not want for his son. Is that plain enough? If not, then write your desire for freedom for the Filipino people as liberally as you will and I will subscribe to it. And I am in accord with not only the last but the last three Democratic platforms upon this subject. I believe that the platform of 1904 spoke the truth more plainly than the others when it said that the Philippine people should "work out their own destiny"; but I call the attention, however, of my friends on this side to those respective platforms to say that the emphasis in them rests upon one fundamental word, "stable."

In both the platforms of 1908 and 1912 this statement is repeated, "a stable Government," and in it lies the key to our duty. We do not want over there that which renders things unstable and impermanent. Our party has charged us twice



with doing that which shall create "a stable Government," and has charged us with nothing else. To that and to that alone we have the right to address ourselves. Furthermore, the second fact that ought to be called formally to the Democrats of this House is this, and I do it on the authority of Senator O'GORMAN, of New York, who authorizes me to say, as a member of the platform committee at the last Democratic national convention, that a resolution favoring the so-called Jones bill was submitted to that committee and was argued before that committee; that the arguments were heard and considered, and after consideration that resolution was rejected and the platform as it stands was substituted in its place.

Mr. JONES. Will the gentleman permit an interruption, because this is a very important statement he has made? I will say to the gentleman that a plank relating to the Philippines was prepared and presented to the committee on resolutions of the Baltimore convention. It was prepared by the Hon. JOHN SHARP WILLIAMS, Senator from Mississippi, and myself. There were fifty-odd copies of this plank made, and a copy was placed in the hands of Senator O'GORMAN and a number of other members of the committee, and it was read and discussed by the committee. But I absolutely deny that it indorsed or specifically referred to the Jones bill, Senator O'GORMAN's alleged statement to the contrary notwithstanding, and I have got a dozen copies of it.

Mr. REDFIELD. I have no reason to change the statement I have made.

Mr. JONES. Nor have I to change mine.

Mr. REDFIELD. And another Member of this House, whom I will not mention, though he sits near, has had in his hands, or at least has seen, a similar resolution, which was offered at the Baltimore convention, or which its supporters attempted to offer, and which was turned down by the convention. Now I will proceed, Mr. Chairman, if I may.

Mr. TOWNSEND. The gentleman said, "turned down by the convention." I presume the gentleman meant it was turned down by the committee.

Mr. REDFIELD. The gentleman is right; turned down by the committee. Now, gentlemen, I think it will be agreed by all men on both sides of this great legislative House that where the fortunes of 8,000,000 souls are at stake care, deliberation, accuracy, and truthfulness should characterize procedure. It seems to me essential, fellow Democrats, that you who bear the burden of power now and are to have it in larger measure hereafter are entitled to know the truth and not merely a part of it. You have a right to truth which is not colored, either by passion or by prejudice, but candid, open, complete truth, and you have not had it. [Applause.] There is need here where the birth of a nation is proposed for accurate knowledge and for accurate knowledge which shall be complete. Then there is need for thorough assimilation of that knowledge, and then there is need for the greatest moderation in action. Will there be any man who will impugn the plea for thorough knowledge, uncolored and candid, then for deliberation, for a mature digestion of that knowledge, and finally for moderation in action based thereon?

Can that be objected to by any man? For, as the President elect has well said, we are trustees for the Philippine people. We are trustees for the Moro as well as for the Tagalog. We are trustees for the Visayans and equally for the Igorot. We are trustees for the Ilocano and trustees for the Kalingan also. And we must honestly legislate not alone for a tribal oligarchy but for all the other peoples of the islands who are less able to care for themselves, and for whom therefore we are in honor bound to act just as truly, or more truly, as trustees. [Applause.]

Nor is this essentially a political question. I do not think the American Republic in considering the birth of a child-nation, if I may call it so, should be borne by the winds of passion or of prejudice. This is a human problem, where the lives, happiness, peace, and prosperity of millions now living and other millions yet to be, are in our hands. We have no right before the people whom we are sworn to serve to come here with political passion; least of all, with pride of opinion. The country is entitled to the truth. And the Democratic Party is obligated to deal with the truth thoughtfully, calmly, fearlessly, and in the fear of God. Evil must not escape. If the Governor General of the Philippines or any of his servants do wrong, God forbid they should escape the just penalty for their acts. Let them be punished, but let us be careful that we do not at the distance of 15,000 miles, and when they are not here to speak for themselves and can not be represented on this floor by innuendo or exaggeration submit them to any charge which, if we were subject to cross-questioning, we could not sustain. [Applause.]

There are various kinds of public wrong. There is the open treason to the State. There is the man who enters the shores of the Philippines with arms and attempts to overthrow the government there established. How less guilty is he who enters, not by open force and in the light of day, but by skilled twisting of facts, by innuendo, by the omission of pertinent things, by the falsehood which a half truth always creates—how less guilty is he who throws a false light upon the screen, and would enable us to see things other than as they are?

Now, for the people of the Philippines I want all that I want for myself and my children, neither more nor less, but I do not forget that the freest people of the world are not always those people that have political independence. Over many great public documents in my own State runs the phrase, "The people of the State of New York, by the grace of God, free and independent." But they are not so. They gave up their independence largely into your hands for good reasons. The people of Scotland are free; they are not independent. The people of Prussia are free; they are not independent. The people of New Zealand and Australia are free; they are not independent. And there are peoples who are independent but who are not free, for who will say that in Haiti there is freedom? Mexico is independent, but save us from such freedom.

Now, having said this much by way of introduction of this great subject, I am not going to discuss further the principles of the legislation now pending. When it shall come I shall be ready and thankful to discuss it, but I am going to refer to certain things that ought not to have been said in the way they have been said. I acquit absolutely the gentlemen whose language I shall criticize of any improper intent. I believe they have meant and intended to speak the truth, but I think they have none the less failed to put the truth rightly before the people of this country.

Now, to be specific, I am going to take up, first, the language used by the gentleman from Virginia [Mr. JONES] on the 28th day of January and appearing on pages 2169 and 2170 of the RECORD, as follows:

The Benguet road is a highway less than 20 miles in length, built at a cost of several millions of dollars in gold through a mountain gorge to a health resort or residential park, called Baguio, to which place, at great expense, the seat of government is transferred from Manila for several months each year, and where American officials have handsome homes, clubhouses, polo grounds, and other sources of recreation and amusement. The Filipinos have from the beginning been violently opposed to these vast and absolutely inexcusable expenditures.

And other reference is made to the so-called automobile road, which is stated to be solely for the purposes of recreation and pleasure. And then, on the other page:

An enormously expensive automobile road, leading to a mountain summer resort maintained exclusively for the benefit of themselves and other rich residents of Manila.

It is not true. I was there in the middle of the winter, and Baguio was in full blast, except for the government buildings; but the government property is not all of Baguio. Let us have the plain truth on this subject, and I shall be delighted to be challenged. There is hardly a correct statement in the words I have quoted. In the first place, the Benguet Road is not correctly described as 20 miles long when stating its cost. There is one of your half truths. It was 30 miles long; but in order to reach Baguio from Manila 10 miles of it have been replaced by a railroad and but 20 miles remain as the Benguet Road. The other 10 miles is in local use between Pozzorubio and Camp No. 1. The other 10 miles is now unnecessary in going from Manila because of the railroad from San Fabian to Camp No. 1. The cost stated was for the full 30 miles, but the impression was given that it was the 20 miles that cost so much.

Mr. GREEN of Iowa. Is the railroad included?

Mr. REDFIELD. No. It is not fair to come to this House and say that a road cost several millions and is less than 20 miles long, when in fact that cost covered 30 miles of roadway. I would not have in my employ a department head who made such a misleading statement.

Mr. MURRAY. Would the gentleman have, as chairman of the Insular Affairs Committee, a man who would make that statement?

Mr. REDFIELD. I went to Baguio and spent some days there. I entered these houses.

Mr. JONES. The gentleman said that he would give me an opportunity to reply. I want to know when he will yield.

Mr. REDFIELD. My time is very limited, and I will ask you to come on after I am through.

Mr. JONES. I may not be able to get any time.

Mr. REDFIELD. I entered these houses in Baguio. They are not magnificent houses.

Mr. FLOOD of Virginia. How much time does my colleague from Virginia [Mr. JONES] need?

Mr. JONES. As much time as the gentleman will give me. I will be glad to have 10 minutes.

Mr. FLOOD of Virginia. Does the gentleman want 10 minutes?

Mr. JONES. Yes.

Mr. REDFIELD. They are comfortable homes. There is nothing in Baguio that can be called magnificent. There is nothing that fairly corresponds to the description of an exclusive summer resort. I repeat, I was there in winter. There are gold mines near. My son went to them. This road is their only outlet to the plain. There are two missions there with schools, one Catholic and one Episcopalian. My wife went to one of them. There is a prison there, with about 300 convicts at that time. Camp John Hay is there, with a military hospital. This road is their only outlet to the railway and to Manila.

There is a village there, and I will tell you in a moment about the village, because what I shall tell you will show how fit for self-government some portions of these people are whose claims for independence are pressed upon us. This road was not built for pleasure automobiles, merely. They are not ordinary automobiles in the sense that we commonly understand the term. The automobiles there are Government stages, using steam, and seating 10 persons or so each. It is the only way of getting up the rise of nearly 5,000 feet.

I saw no private automobiles, save two. One of them I used myself at the hotel. The town of Baguio is also a native town. It is an Igorot town. I went up there on Saturday afternoon. The road was sprinkled, as we went up the mountain side, with the Igorots going to their market, to be held the next morning. They were guileless of all clothing. The only thing they wore was a gee string around the waist and through the loins. That was all. Each of them had at one end of a bamboo stick one or more of their "skin-tight" dogs, as my boy called them—dogs with short hair and very thin. These gathered in groups and groups, until there were many men leading many dogs to Baguio that afternoon. [Laughter.]

The next morning, leaving the hotel, passing the prison, down into the market place presided over by Ilocano policemen, we went to the Sunday fair at Baguio. Of course, you must remember that there is nothing at Baguio but "a summer resort." But still, for some strange reason, perhaps 500 Igorots gathered at their fair. They were selling these dogs and other things. I would like to entertain you by putting myself in one of the costumes bought there. [Laughter.]

A MEMBER. No! [Laughter.]

Mr. REDFIELD. They were selling the dogs—for what purpose, think you? These lean dogs were sold to be stuffed with rice. Being hungry, not being fed for days, they were stuffed with rice until the dogs gorged themselves, and then were led over the hills in quantities to be slain and eaten as soon as they got home.

Directly in front of the hotel, working on the road, was a man who bore the mark of the headhunter on his head. He had taken 10 heads, but he had been converted to peaceful labor.

I shall have time to say of Baguio and the Benguet road only this one thing further that was omitted from the statement of the gentleman from Virginia, that the trunk road criticized here is also the outlet for 400 miles of mountain trails which gather at Baguio.

There is a polo ground there. Gov. Forbes built it at his own cost. Why should he not? But Baguio is also a place near which there are mines, where there are missions, where there is a prison, where there is a little native market town, large for the mountains, and it is the center and outlet for the trails of the mountain province. The Benguet road stands to those trails in the same relation as the Pennsylvania line between Philadelphia and New York does to the country west of Philadelphia and to New York City. A railroad is now building to Baguio to replace the Benguet road. How clearly this simple fact exposes the error of calling it "a mountain summer resort maintained exclusively for the benefit of themselves—American officials—and other rich residents of Manila." So much for Baguio, except to say that health resorts of this kind are common in the Tropics. A famous one is Simla, in India.

The gentleman from Virginia, however, made a point, on January 28, that a considerable part of the money appropriated by Congress to save the Philippine people from starvation—

Was expended on the Benguet automobile road—

And said—

In the estimation of the commission these starving Filipinos stood more in need of an automobile road than of the rice, to purchase which the American people in their generosity gave this money.

It is hard to refrain from unparliamentary language when this amazing statement is compared with the facts.

The nature of the so-called automobile road I have already described. What shall be said, however, of the statesman who seems not to know that the accepted method of distributing public funds for famine relief is by employing the people sought to be relieved on public works? It is hard to believe that the gentleman from Virginia did not know this ordinary fact. Would he have substituted open gifts of money for wages fairly earned? Does he not know that in India long experience with famine has brought the method he now criticizes into standard use, whose wisdom no one questions? But why, also, does the gentleman omit to mention that there were other roads—17 of them—upon which money from this same fund was expended for the same purpose at the same time? These other roads were in various parts of Luzon and in Cebu. The total amount spent on these other roads was larger than that expended on the Benguet road. If he would not have the House believe that this Benguet road was the sole beneficiary, why did he not say that it was but one, though the largest, of many roads in many parts of the islands treated in this way?

My time is getting so brief that I want to take up that beautiful work of fiction known as the report on the Philippine independence bill. Gentlemen of the committee, it may be that there are accurate statements in that report, but I must confess before you with great frankness that I have not yet been able to find any. [Laughter.]

Now, I am going to take one of them and illustrate it to you—because it is not a Philippine matter at all—to show you the utter impossibility of getting the full facts from this report.

On page 12 are these words:

Notable among the small countries whose independence, although preserved inviolate for ages, has never been guaranteed by international treaty or otherwise, may be instanced the independent monarchy of Siam. This small kingdom of southeast Asia resembles in many respects the Philippine Islands. The population of Siam is only a little less than that of the Philippines, and it is divided among a number of tribes who inhabit different portions of the country. The Siamese number 3,000,000, or less than half of the population, whilst the remainder is made up of Laos, Chinese, Malays, Cambodians, Burmese, and many others. There are, too, many small, uncivilized tribes which inhabit the mountainous sections, several of which possess the characteristics of the Negritos of the Philippine Islands. There are many different dialects spoken in Siam, and yet this non-Christian country, with no standing army, has never fallen a victim to any land-grabbing nation.

There are some very incorrect statements there. In the first place, the comparison in reporting a bill intended to create a republic, with a country which is an absolute monarchy, is a little bit peculiar. On page 1228 of the Statesman's Yearbook for 1912 I find that in 1904 about 7,800 square miles of territory passed from Siamese possession into the hands of the French, and in 1909 about 15,000 square miles of Siamese territory passed into the hands of the English. Yet this report says it "has never fallen a victim to any land-grabbing nation."

Now, if I turn to the Encyclopædia Britannica of the last issue, from the article on Siam I read that most departments have the benefit of a foreign adviser. And referring again to the Statesman's Yearbook, I find the statement that—

Much excellent work has been done by a general adviser of American nationality, with the assistance of a British judicial adviser, a French legislative adviser, and legal advisers of various other nationalities.

The police is—

a force which includes a Danish inspector general and a body of Danish instructors. A British officer occupies the position of financial adviser, and there are numerous other British officers holding high positions under the Government, more especially in finance, revenue, forests, survey, police, justice, customs, mining, mint, and education.

We are told in the report that this is that happy native country which has no standing army. Yet universal liability to military service is now in force, and I have before me here the statement of a gentleman who recently witnessed the review of the standing army, or a portion of it, of 26,000 men.

By a law passed in 1903—

Says the Encyclopædia Britannica—

the ancient system of recruiting the army and navy \* \* \* was abolished in favor of compulsory service by all able-bodied men.

Let me take up one or two trifling things further. I venture to point out to the gentleman from Virginia that his line of attack by exaggeration and by omission is alienating the people who have been supporting him, and I send to the desk to be read an editorial on his remarks from the Springfield Republican, a well-known anti-imperialist paper.

The Clerk read as follows:

MR. JONES ON THE PHILIPPINE GOVERNMENT.

If there is graft or maladministration among the officials of the Philippine Islands, it should be exposed as relentlessly as the same sort of thing in this country. But Mr. JONES, of Virginia, should be very sure of his evidence before making charges of this character. Gov. Gen. Forbes is not a man who would stand for corruption. The Republican has complete confidence in his rectitude and also in that of some other members of the commission of which Mr. Forbes is the head.



In his speech in Congress Mr. JONES, who occupies an important position by virtue of his chairmanship of the Insular Affairs Committee, made prominent as a subject of criticism the building of the Benguet Road and the establishment of a summer capital at Baguio, which is located in the highlands of the interior of Luzon. The wisdom of spending much money on that project may be open to question, but it is to be very much doubted that there has been any graft in connection with it.

The question was ventilated a few years ago in a congressional investigation of Philippine administration, and we could find no evidence in the hearings that stamped the summer capital project as a grafting scheme. There may have been extravagance, but no corruption, according to our understanding of the situation.

Of course, Mr. JONES knows that when the Philippine House fails to pass supply bills the Executive, under the organic act of the United States Congress creating the Philippine Government, may end the deadlock between the House and the commission which constitutes the upper chamber, by decreeing the enactment for the ensuing year of the appropriations passed by the assembly the previous year. That was what was done, evidently, in the instances mentioned by Mr. JONES. Such an act is arbitrary, but lawful, and in no necessary sense an evidence of maladministration.

An unbiased person would say, probably, that the executive officers of the Philippine Government deserved to have a place in the mountains of the interior where they could carry on the work of the Government in the hot months under as healthful conditions as possible. Manila is in the Tropics or subtropics, and a "summer capital" in such a country should not be condemned in principle.

Muckraking is occasionally necessary; but if the Democrats proceed on the assumption that a muckraking campaign directed against the present Philippine administration is politically essential as a preliminary to the effort to establish Philippine independence, they will find out their mistake in due season. One can generously credit the American Government in the islands during the past decade with much fine achievement and still find strong arguments to justify the sound American policy stated in the last national platform of the Democratic Party.

Mr. REDFIELD. Mr. Chairman, time will lack; indeed, I should need the afternoon to discuss the numerous errors in this report. On page 5 is this statement:

In Zamboanga, in the Moro Province, one of the most delightful of the cities of the Philippine Archipelago and the fourth in commercial importance, there were 44,322 inhabitants in the year 1903, almost equally divided between Christians and non-Christians.

The CHAIRMAN. The time of the gentleman from New York [Mr. REDFIELD] has expired.

Mr. FLOOD of Virginia. I yield to the gentleman 10 minutes, which I have promised him.

The CHAIRMAN. The gentleman from New York is recognized for 10 minutes additional.

Mr. REDFIELD. To resume: The city of Zamboanga is declared to contain 44,332 inhabitants in the year 1903, which is decidedly in error. This number, 44,332, is taken from the census, but is misquoted, for it is the population of the whole district of Zamboanga, having a coast line of more than 800 miles and embracing the largest towns in the great island of Mindanao. The census tables (p. 209) give the civilized population of the city of Zamboanga as 3,281.

The mistake is one of a trifle over 13 times, you will observe. If we add the nearest outlying barrios of Tetnan, Santa Maria, and San Jose, we only get a total of 7,907. If we add 12 other barrios, to a distance from Zamboanga of 15 to 20 miles, we only embrace a population of 20,692. If we add the wild people in and about Zamboanga, we only get a total of 21,230.

To illustrate another one of these easy statements of fact which people accept unless they look, I find, on page 8, this statement:

The Philippine constitution, written by Apolinario Mabini, and proclaimed by the Malolos Government in 1899, is justly regarded as a notable intellectual achievement.

Perhaps it was, for the commission which drafted it said that—

In executing it not only has the French constitution been used but also those of Belgium, Mexico, Brazil, Nicaragua, Costa Rica, and Guatemala.

The present point is, however, that it was not written by Mabini. Its chief authors were Pedro A. Paterno and Emilio Aguinaldo. When it was published to the insurgents at Malolos, January 21, 1899, it was after Mabini had protested against it.

Let some say that the mistakes pointed out are trivial rather than, as I think them, typical, let us take this statement from page 8 of this report:

Among other arguments advanced against granting the Filipinos independence is their alleged lack of homogeneity. The truth is they are more homogeneous than the people of the United States. The director of the Philippine census, Gen. J. P. Sanger, United States Army, says, in his chapter on Population:

"As compared with the schedules of the Twelfth Census of the United States, those of the Philippine census are somewhat simpler, the difference being due mainly to the more homogeneous character of the population of the Philippine Islands."

Here we have the half truth in full bloom. The census report from which this abstract is taken is in four volumes. Were it searched throughout, it is doubtful if another quotation can be found to support the position of the committee based on the apparent meaning of this single extract. One can imagine the joy with which these words were seized from out

of a census whose bearing else is strongly the other way. Let us look, however, at this extract and see if it, torn from its context, naked and alone, can, when measured by other facts in the same census and by the truth as it is now known, be made to warrant the use made of it by the committee.

Doubtless the schedules for the Philippine census were simpler than those in the United States. This country is one of the most advanced, with widely diversified occupations and interests, perhaps the most so of any land. The Philippines at their best are one of the most backward of the civilized lands, with relatively few occupations and interests. The difference in the state of civilization by itself alone explains the simpler schedules in the Philippines. There was less to record, hence simpler means of recording. Very simple census schedules there would be, indeed, for the deserts of Arabia, where the Bedouins wander. A pastoral country, in which all men were shepherds, would be homogeneous as to its occupation, but not advanced in arts and crafts. The very simplicity of the schedules is the evidence of the backwardness of the people whose condition they recorded. Relatively homogeneous, indeed, because few of them had advanced far.

But this is not the core of the matter. Racially the Filipinos come from one or two common stocks, and since the islands have neither suffered nor profited by immigration on any large scale, their peoples, in strict ethnological sense, are undoubtedly more homogeneous than those of the United States. The Philippines, however, present this curious anomaly: Starting practically from one or two common stocks, their inhabitants have separated into different groups, marked by different customs, languages, religions, and cultures, which in some cases and for many years have been, and to some extent now are, separated by feelings of enmity. The United States, on the other hand, drawing its inhabitants from many quarters, has to an amazing degree thus far been able to assimilate them all into a body, politic, having the same habit of national thought. In other words, two opposite processes have been working in the two cases. The people of the Philippines, starting ethnologically, and geographically as a homogeneous people, have become diversified and heterogeneous in language, customs, religion, and thought, while in the United States the heterogeneous elements entering into the population have steadily approached homogeneity in these same particulars. What does the census itself say?

Other features of the census plan were as follows: Commissioning all census officials and requiring them to take the oath of allegiance to the United States and to the faithful discharge of their duties; guarding against any attempt on the part of supervisors to use the census for the benefit of relatives within the fourth degree. \* \* \* A similar plan was employed in taking the census of Cuba and Porto Rico, and resulted successfully in those islands; but it was, of course, far more difficult to apply it to the Philippines, owing to the larger population, diversity of tribes, and the difficulties of communication between islands and provinces, and even between adjacent municipalities and barrios.

Some difficulty was experienced in finding a sufficient number of enumerators who could read and write Spanish who were not related to the governor supervisor within the fourth degree of consanguinity, and for the Province of Bohol special legislation on this point was necessary. Many of the presidentes did not understand Spanish at all, and for the same reason, in a number of instances, enumerators had to be taken from one municipality to serve in another. This was, of course, a disadvantage, but was fully expected, as it was well known that in many of the barrios none of the inhabitants could read and write Spanish.

While, on the face of it, the plan of the census was quite simple and the schedules and instructions easily understood, their practical application proved to be beyond the ability of many of the enumerators and special agents, and even of some of the supervisors. This was not due so much to a want of intelligence as to a lack of experience. In fact, a number of the native census officials were apparently incapable of reasoning from analogy or of applying the instructions to any case not covered by them directly or of taking the initiative in meeting emergencies or in providing remedies. This is not meant as a reflection on the natural capacity of the Filipinos, because there is plenty of that, but as illustrating a Filipino trait, more or less general, resulting from inexperience and superficial study, in consequence of which they often mistake ability to theorize freely for practical knowledge.

It may be said that the Filipinos are generally subordinate to lawful authority; that under competent officers they make excellent soldiers; and will in course of time, it is believed, make good citizens. In fact, it is not too much to expect that under the guidance of a free, just, and generous Government, the establishment of more rapid and frequent means of communication whereby they can be brought into more frequent contact with each other, and with the general spread of education, the tribal distinctions which now exist will gradually disappear, and the Filipinos will become a numerous and homogeneous English-speaking race, exceeding in intelligence and capacity all other people of the Tropics.

Note the words "will become \* \* \* homogeneous" above. Thus much for the census itself.

Now, for some individual testimony. The governor of Zambales writes:

The inhabitants are Christians of different origins, and have also different dialects, the principal being the Zambal, Ilocano, Tagalog, and Pangasinan. Notwithstanding the heterogeneous character of the inhabitants, there does not exist any animosity between them, but, on the contrary, they live in utmost harmony.



The governor of Tarlac says:

The population of this Province is quite heterogeneous and it is difficult to make a report regarding their customs, manners of living, etc., being one of the newest of Luzon, the creation thereof dating back only to the second third of the past century. \* \* \*

To the difference of origin of its inhabitants is due also the difference of the dialects they speak—Pampangan by those of Pampanga, Pangasinan by those of said Province—Tagalog, by those of Nueva Ecija, and Zambal by the Aetas and Negritos, and also Ilocano, by reason of the large contingent of families from the Ilocos Provinces. Hence their customs and manners are all so different.

The governor of Ambos Camarines writes:

The overwhelming majority of the inhabitants of the Province are of the Bicol Tribe, the only important exception being in Camarines Norte, formerly a separate Province, where the Tagalog predominates. In that district the towns of Capalonga, Labo, Indan, Paracale, Mambulao, and San Vicente are almost entirely Tagalog; Basod, the nearest town to the Camarines Sur border, is Bicol. Dact and Talsay are mixed, the Tagalog Tribe showing a majority. \* \* \*

Throughout the remainder of the Province the language in general use is the Bicol, but it is subject to such wide variations in different localities as to practically divide it into distinct dialects, each with manifold diversities as to pronunciation, accent, and localisms. As the vast majority of the people have no knowledge of Spanish, and therefore have the local dialect as their sole medium of communication, they are far from a united people, residents of towns separated by but a few miles being considered practically as foreigners to each other. \* \* \*

The masses of the people have in former times had no educational opportunities and are extremely ignorant and superstitious. They are easily led and controlled by strong leaders, are credulous as children when dealing with persons in whom they have confidence, but shy and suspicious as to strangers.

This should be sufficient, but as a final word on this subject the Schurman Commission reported the following classification:

THE NEGRO RACE.

Twenty-one branches or tribes, according to customs and habitat.

THE INDONESIAN RACE.

Sixteen branches or tribes, according to customs and habitat.

THE MALAYAN RACE.

Forty-seven branches or tribes, according to customs and habitat.

Total number of tribes	84
Total number of dialects	74
Total number of languages	6

Pursuing further, briefly, the matter of language, the following is from page 8 of the report:

The Hon. Newton W. Gilbert, secretary of public instruction in the Philippine Islands, at one time a Member of the House of Representatives and of this committee, makes the striking statement in his annual report for the year 1910 that "more persons in the Philippine Islands speak and write the English language than speak and write any other language or dialect." If this were true in 1910, how much larger will be the proportion of those who speak and write English in 1921? But there is more recent and much stronger testimony than this in refutation of the oft-repeated assertion that the Filipinos possess no common language and therefore are lacking in the means of communication among themselves. In a carefully prepared article in the American Year Book for 1911 it is stated that more Filipinos speak the English language than speak any other one language or dialect. This is to say, that more than one-half of the Christian inhabitants, who constitute more than nine-tenths of the total population of the Philippine Islands, have acquired the ability to speak the English language in the short space of 10 years. If this great progress has been made by the Filipinos within the last decade in the acquisition of the English language, what may not be expected of this wonderful people within the next 10 years?

This statement shows what the school children are doing in the way of acquiring the English language, but does not touch the question of the acquisition of a common language by the adults. It is a bit unfortunate for the committee that the commission's report for 1910 should also contain these words:

A common language is a thing so far entirely unknown in the Archipelago. It may not so much matter what the language is, but it is of primal consequence to any attempt at unification that the people be able to communicate with one another in a tongue which all understand. Until they are able so to exchange their thoughts and ideas there can be no real national life.

The report says further, page 6:

A large majority of the whole people, however, speak either Tagalog, Visayan, or Ilocano, which are the three principal languages of the islands.

This, so far as it goes, is true, but it does not express the whole truth. It takes no account of the Bicol, now numbering over half a million, with a language of their own; it takes no note of the Pampangan and the Pangasinan Tribes, each with about 300,000 members speaking different languages.

In particular, it omits to note that the Visayans, who form over 40 per cent of all the people in the islands, are scattered through about six principal islands and numerous lesser ones. Though of the same tribe, speaking the same language, the inhabitants of these separate islands can not understand each other when they meet through their own tongue. Their dialects are almost different languages. The Visayans of Cebu, for instance, speak Cebu-Visayan; those of Leyte, Leyte-Visayan; and so on throughout the group. Yet Cebu and Leyte are but 50 miles apart. We may go still further. The island of Leyte, in parts, is barely 40 miles across. The inhabitants of one coast can understand the inhabitants of the other, if at all, only with difficulty; yet they speak in common this tongue of

over 40 per cent of the Filipinos. In varying degrees this is the same within every tribe of the Philippines.

In speaking, page 5, of the Moros the report says:

That they are actually outnumbered by the civilized Filipinos of Mindanao, notwithstanding that 226,158 of the 277,547 Moros (2,323 of whom are themselves civilized) dwell in that island. It is a fact not generally appreciated, if known, that 296,845 Christian Filipinos also inhabit the island of Mindanao.

Secretary Dickinson, however, stated in his report to the President thus:

There are about 500,000 Moros and Pagans residing in the Province. The Christian Filipinos number about 50,000, many of whom have come into the Province since American occupation. The Moros are Mohammedans and are firmly fixed in their religious belief. They are warlike, manly, independent, and have a strong hostility to the Filipino. They have no conception of a republican form of government. The only government which they know is autocratic. They are peaceful now because they have been subjected to military power and are controlled with firmness and justice, which they appreciate. The Moros would have to be essentially re-created to make them an integral governing part of a republican government uniting them with the Filipinos.

I have personally conferred with the governor of Zamboanga, who informs me, from an experience of nine years, that the total number of Moro and other non-Christian inhabitants is not known, but a conservative estimate places them at 500,000. The Filipino population is limited to small areas along the coast, aggregating a population of about 50,000. In other words, the Moro and other non-Christian population of the Province number about ten to one of the Filipino population, and the Moros and other non-Christians inhabit and control about 99 per cent of the total area of the Province.

The difficulty with the committee's statement, which is quoted above, is that it is taken from a census of 1903, which was concededly inaccurate as regards the population of Mindanao and upon which no reliance can be placed as to the number of Moros and pagans. The statements just made have been shown to the governor of Zamboanga and are approved by him.

Time does not permit my traversing further the remarks of the gentleman from Virginia or the report of the committee of which he is chairman. I affirm, however, that there are errors of fact other than those mentioned above in both, which seriously injure their value as public documents. In particular, the statements made in the report as to education and political experience are incomplete and from this incompleteness convey erroneous impressions, and the same is true respecting important details in the address that has been criticized.

Now, I want to say a few things regarding a phase of the magnificent work that should fill every American, whether Republican, Democrat, or Socialist, with pride, the magnificent work that, on the whole, the Americans have done in the Philippine Islands. [Applause.] Those of us who stand here and make faces at their backs do ourselves wrong; we can not injure them. The verdict of history is in their favor.

This which follows is the statement of the medical director. I have met him; he is a truthful man; he is describing things as we found them, and I say to you, my fellows of the Democratic Party here, that it should give us pause to think that there are at least 360,000 Filipino people living in those islands to-day who would be dead now if we had not gone there. Such has been the efficiency of our medical service there.

Dr. Heiser says:

Forty thousand persons were dying annually from smallpox, while the number of deaths from beriberi in jails and other public institutions was frightful. With the exception of the water system in the city of Manila, there was not a reservoir, pipe line, or artesian well for the 7,200,000 people of the entire archipelago, and even the water for the city of Manila was known to be grossly polluted. The dead were buried in a most haphazard manner, it being a not infrequent experience to find as many as four or five interred in a grave. The bones of those who had died but a few months before were often ruthlessly cast out to bleach in the sun in order to make room for a more recent death. The city of Manila, which had a population of over 200,000, had no sewer system, and foul human discharges found their way directly into the esteros or canal, of which there are some 23 miles. The water in these was frequently stirred up by the lighters and other craft which are used so extensively in Manila for transporting cargo, with the result that noxious gases were constantly being liberated.

There was no food law, and the vilest class of food products was shipped into the country without let or hindrance. Amoebic and other forms of dysentery soon affected the troops and others who had come to the Philippines to aid in governmental work. Subsequent experience has shown that these same diseases were responsible literally for thousands of deaths annually among the Filipinos. There was no hospital in the entire islands which had modern surgical equipment, and persons died on every hand of disease which could have been easily relieved. It was not uncommon to find many persons horribly deformed by the scars which resulted from injuries or ulcers that could have been easily cured if skilled attention and facilities had been available at the time when they had their beginning. The prisons throughout the islands were indescribably filthy and neglected.

The maritime quarantine was conducted upon a basis of graft rather than upon merit, with the inevitable result that an outbreak of plague, cholera, or smallpox in the near-by foreign countries meant the early introduction of the disease into the Philippines. There was no proper inspection of animals before slaughter, and suitable slaughterhouses



where this work could have been done were conspicuous by their absence. More than 5,000 lepers were at large throughout the Philippine Islands. A few hundred were taken care of as objects of charity, but there was no attempt to segregate lepers.

Malaria prevailed in hundreds of towns in the Philippines, without quinine being available to combat it. It was no infrequent experience to find imitation quinine pills being sold at fabulous prices in the stricken districts, and the poor populace had no one to whom to apply with the hope of receiving any relief from this most intolerable condition. Sections of Manila, having a population of 5,000 to 25,000, were built up with houses so closely crowded together that there was no room for streets or alleys, and egress from these sections had, in many instances, to be made by the residents crawling under one another's houses. Manila is located on a tidal flat, and formerly, at high tide, about half of the city was inundated. As this flat land consisted of soft, oozy mud, the conditions can be better imagined than described.

There was no governmental provision for the insane, and it was no uncommon sight to see these unfortunates tied to a stake, under a house or in a yard, with a dog chain, and it often happened that during fires, which are so frequent in towns built of nipa, these unfortunates were burned because no one thought to release them. Foods and perishable provisions were sold under most filthy conditions, the common practice being to sell them from the ground, so that the dust and dirt of everyone who came to see was soon intimately mixed with the food that was on sale. It was a frequent occurrence to find small rooms, often no larger than 8 by 10 by 8 feet, in which from six to eight persons were sleeping. Tuberculosis was responsible each year for perhaps another 50,000 deaths throughout the archipelago. No effort whatsoever was made to teach the people how to deal with this scourge.

To-day in the six Provinces which immediately surround Manila, where formerly there had been probably for centuries 6,000 deaths annually from smallpox, there was not a single death from that disease in the year following the completion of the vaccination, nor have there been any deaths since that time among persons who were vaccinated in those Provinces. This work is still going on, and the net result is that there are now at least 30,000 less deaths annually than was the case before this work was begun.

In Manila a modern water system has been constructed at a cost of approximately \$2,000,000, for which the water is now obtained from an uninhabited watershed. This improvement has already resulted in a reduction of approximately 800 deaths annually in Manila, from the gastro-intestinal diseases. At the cost of another \$2,000,000 a modern sewer system was provided. This is one of the most modern of its kind, and has been in very satisfactory operation for four years. The filthy latrine and cesspool are now rapidly giving way to the modern flush closet. Twenty-three miles of esteros have been cleaned of their accumulation of centuries. Hundreds of artesian wells have been bored throughout the islands, and work is under way for the installation of many hundreds of others. Wherever the water from an approved well has been exclusively used by a community, the death rate has often dropped 50 per cent. In other words, in a town of, for instance, 3,000 inhabitants, there are now 150 less deaths annually than occurred before pure drinking water was furnished.

The jails throughout the islands have been cleaned and sanitary equipment installed. The loathsome skin diseases from which the prisoners suffered were cured, and the conditions have been made such that their contraction in the future is extremely unlikely.

Beriberi, which in former days caused frightful mortality in jails and other public institutions, and was responsible for 5,000 deaths annually in the archipelago, is now being rapidly reduced owing to discoveries which were largely worked out in the Philippine Islands.

Lepers have been segregated in comfortable decency, and Dr. Heiser says, "probably 600 persons are being saved annually" from the leper's fate. Plague has been extirpated. Cholera has been destroyed.

A modern insane hospital has been constructed in Manila, where there is room for at least all of the cases that are urgently in need of care. A large general hospital, with a capacity of 350 beds, has likewise been constructed in Manila. This is unquestionably the most modern and best-equipped hospital in the Eastern Hemisphere and will compare favorably with the most modern hospitals in Europe and America. Already patients are being treated at the rate of 80,000 a year in the out-patient clinic, which means that thousands upon thousands are receiving relief and are freed from pain, among whom only agony and distress existed heretofore.

A campaign against tuberculosis has been organized; camps for the treatment of incipient cases have been constructed at various places; many dispensaries have been opened; a hospital for incipient cases provided at Baguio and a hospital for chronic cases at Manila. A campaign of education has been waged on every hand; the aid of moving-picture films has been utilized; in short, everything is being done that is customary in enlightened communities of Europe and America.

The influence which this work has had upon other colonizing powers in the Orient it is almost impossible to estimate at this time. During the past four years representative sanitarians and others from Japan, China, Hongkong, Indo China, the Straits Settlements, Java, India, the Federated Malay States, Australia, Ceylon, Siam, and other countries have come to the Philippine Islands for the purpose of studying the methods by which the results in the Philippines were brought about.

Fifty per cent—you who carp at or ignore our magnificent life-saving work yonder—50 per cent of all the children born in the Philippine Islands died in infancy. Would you turn down the men who have saved the lives of the children? [Applause.]

Now, I sympathize with all my heart with their desire for freedom. God knows I want them to have it; but independence is not a thing to be treated as in an alleged recent case, where one of the caciques going to Manila said, at the request of his people, that he would bring them some packages of it when he came back.

Freedom is a serious thing. We have taken many years to learn how to appreciate it. We were trained for centuries in self-government, and yet when the Revolutionary War was over we made a mistake in endeavoring to get on with a confederacy which we had to give up. You can not take a people and bring many of them out of savagery to self-government in 15 years. It can not be done. It is absurd; and you know it is absurd when you think about it, to attempt to impose an occidental

government upon an oriental people in 15 years. The whole report shows the oriental mind. The omissions and the coloring are all oriental in cast. It has not been wholly written by Americans; there is an influence back of it called the Nationalista Party, which casts 90,000 votes in the islands out of a population of 8,000,000.

Now, I have spoken from my heart and frankly. If I have offended by word or by manner I am sorry, for I did not mean to do so. But I have the burden on my heart of the people for whom we are trustees, whom it is our duty, please God, to make a great, strong, free people—a people who shall live to thank us for what we have done for them, a people who are not to be kicked out because we found them troublesome. [Applause.]

[From the New York Evening Post, Jan. 29, 1913.]

#### AGAINST PHILIPPINE INDEPENDENCE.

TO THE EDITOR OF THE EVENING POST.

SIR: I am an anti-imperialist. By this I mean that I have always believed that the most mistaken act ever committed by our Government was the taking over of the Philippines. I also believe that, for our own good, we should get rid of them at the earliest opportunity; but can we righteously do so? I believe that any man who will visit the islands and see, not Manila only, but something of the interior and of the other islands, will say with me that we can not.

I visited the islands for the first time last winter, but I had previously lived a number of years in the Far East, and was in Japan at the time of the war and after. There I met many men who had been often to the Philippines. What have we done in 13 years? The wild tribes are at peace. Head-hunting is a relic of the past. Men go about scantily clad, to the distress of the missionary, but long experience in the Tropics has taught me that this is the best dress.

In Mindanao, where Spain had scarcely a foothold, under the wise guidance of Gen. Pershing, the Moros have almost totally disarmed themselves. The general asked them to bring in their firearms. The chiefs demurred on the ground that if one gave up his weapon his neighbor would steal his cattle in a night. So he called a council of the datos, and all agreed to surrender at the same time, so that now there is hardly a weapon in the island. At Jolo I saw wagonloads of firearms, from flintlocks to Remingtons, being taken to be sunk in the sea or otherwise destroyed. This great island, for centuries the scene of constant bloodshed, is at peace.

Perhaps the greatest blessing we have brought the islands has been a stable currency on a gold basis, much to the disgust of the Chinese money changer. He can no longer charge 15 per cent and 25 per cent for exchanging Greek drachmas or Russian rubles for Mexican dollars. Neither can the British banking firms, with their well-known liberality, discount their own notes at 8 per cent, as heretofore, and as they still do in China.

Manila has a magnificent system of sewerage installed, the foul mud flats have been filled in, and the water supply is the equal of any in the world.

These are details, however. What we have really done is to establish that hitherto unknown thing, justice. Up in the hill country, where might has been right since life began, the young American Army officer is stationed. These stations were raided at first, but punishment quickly followed, and now these boys, many of them but a few years out of West Point, are governors, police, and judges. The native has learned that by going to these men he can get his rights, no matter how powerful his opponent may be, and a new era has opened for him.

Besides justice we are giving them education. A band of devoted men and women have spread themselves throughout the islands to teach in the schools that the Government has established. The schools are well attended.

I could go on indefinitely with the beneficial results following upon our occupation of the islands, and please remember that I went there with my eyes wide open to see just the opposite.

Let me mention but one other thing that we have brought to the islands—the hospitals; unfortunately, still far too few. The native was at first suspicious. The few that knew of hospitals at all remembered only the old filthy holes that were called such by the Spaniards.

I went one afternoon with a young Army surgeon to the University Hospital in Manila. He went through a clinic of perhaps 40 patients in less than half an hour, for time pressed, but in that time he saved the sight of many a child. He then performed that miracle of miracles, the restoration of sight to four patients by the removal of cataracts. This being done we were about to leave, when a big native boy felt his way through the gate. He was evidently blind and in great pain. The doctor lifted the bandage, called to the tired nurses, and inside of five minutes had the frightened boy anesthetized. He had a deep ulcer of the cornea with pus in the anterior chamber, and it was a question of hours only before the eye would have been totally destroyed. The other eye, too, was already infected. Had it not been for that hospital and that doctor that boy would have lost one eye certainly and the other probably.

And yet at the call of many honest people who do not know, as I did not, we would put an end to all this, destroy the first dawning of justice, safety, and happiness that these poor people have ever known. Are they crying out for freedom from an alien rule that has brought them what it has? Not one in ten thousand of them.

If Mr. Wilson or any unprejudiced person could but see those islands as the unnoticed traveler sees them, I am certain that he would change his opinion as I changed mine.

I warn all those who urge evacuation of the islands that such a step would mean nothing more nor less than turning them over to the Spanish mestizo, for 99 per cent and more of the native population are as incapable of even understanding self-government as children. To the men who spend their lives in plotting, stealing, and grafting in Manila, and who have been a stumbling block in the way of all advance from the time we took the islands, the governing power would go.

There may be exploitation; I know of cases. There may be graft; I know of worse cases. But at its very worst it is a heaven as compared to the least of our own municipalities, and to leave these islands now, and their mixed and ignorant people, with our work half done, I believe would be a crime. We have put our hand to the plough. Let us keep it there till the end of the furrow.

FRANK H. CLARK.

COLORADO SPRINGS, January 24.



Comparative statement showing by bureaus amounts allotted under proposed allotment, previous allotment, and act No. 1989.  
[Differences indicated by asterisk.]

	New allotment.	Old allotment.	Act No. 1989.
Commission.....	127,200	127,200	127,200
Assembly.....	450,000	450,000	450,000
Private secretaries.....	3,000	3,000	*9,000
Executive.....	172,000	172,000	*164,000
Executive Bureau.....	530,000	530,000	530,000
Bureau of Audits.....	357,000	357,000	357,000
Bureau of Civil Service.....	77,000	77,000	77,000
Bureau of Health.....	1,417,000	1,417,000	1,417,000
Bureau of Lands.....	648,000	648,000	648,000
Bureau of Science.....	340,000	340,000	340,000
Bureau of Forestry.....	143,000	143,000	143,000
Quarantine Service.....	125,000	125,000	125,000
Weather Bureau.....	131,900	131,900	131,900
Philippine Constabulary.....	2,450,000	2,450,000	2,450,000
Bureau of Public Works.....	286,000	286,000	286,000
Bureau of Navigation.....	1,283,000	1,283,000	1,283,000
Bureau of Posts.....	660,000	660,000	660,000
Coast and Geodetic Survey.....	200,000	200,000	200,000
Bureau of Labor.....	57,000	57,000	*44,000
Consulting architect.....	12,000	12,000	12,000
Supervising railway expert.....	35,000	25,000	*36,000
Bureau of Justice.....	140,000	140,000	140,000
Bureau of Customs.....	760,000	760,000	760,000
Bureau of Internal Revenue.....	572,000	572,000	572,000
Bureau of the Treasury.....	123,000	123,000	123,000
Bureau of Education.....	3,610,000	3,610,000	3,610,000
Bureau of Agriculture.....	850,000	850,000	850,000
Philippine Medical School.....	175,000	175,000	175,000
Bureau of Prisons.....	596,678	596,678	596,678
Philippine Library.....	57,500	57,500	57,500
The Judiciary.....	896,000	896,000	896,000
Provincial government of Mindoro.....	33,400	33,400	33,400
Provincial government of Palawan.....	24,110	24,110	24,110
Provincial government of Batanes.....	15,000	15,000	15,000
Damages, etc.....			*20,000
Provincial government of Samar.....	6,000	6,000	(*)
General purposes.....	50,000	50,000	50,000
Provincial government of Cavite.....	5,000	5,000	5,000
Rate regulation board.....	5,000	5,000	5,000
Legal services.....	5,000	5,000	5,000
Total.....	17,427,788	17,427,788	17,427,788

<sup>1</sup> Medical school allotment made by advice of the Governor General, dated Jan. 2, 1912.

BAGUIO, March 9, 1912.

Mr. MURRAY. Mr. Chairman, I ask unanimous consent that the gentleman from New York be given leave to print on the general subject of Filipino independence.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts that the gentleman from New York be given leave to print generally on the subject of Filipino independence?

Mr. JONES. Mr. Chairman, I shall have to object unless the gentleman states what he wishes to print.

The CHAIRMAN. Objection is heard.

[Mr. QUEZON addressed the committee. See Appendix.]

Mr. FLOOD of Virginia. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia [Mr. JONES].

Mr. JONES. Mr. Chairman, I regret exceedingly that the gentleman from the Philippine Islands [Mr. QUEZON] can not be permitted to proceed for 5 or 10 minutes longer, and I would gladly yield him the few minutes that have been given me but for the fact that I desire to make immediate reply to some statements that have just been made, particularly to those made by the distinguished gentleman from New York [Mr. REDFIELD]. But before I do so, I wish to ask unanimous consent to print in the RECORD the plank which the platform committee of the Baltimore convention were asked to incorporate in the Democratic platform by myself and others, who were desirous of seeing the Democratic Party reaffirm its oft-repeated position in relation to the Philippine Islands.

Mr. MURRAY. Mr. Chairman—

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to insert in the RECORD—

Mr. MURRAY. Mr. Chairman, reserving the right to object, I offer a substitute request that all gentlemen who have spoken on this matter—the gentleman from New York [Mr. REDFIELD], the gentleman from the Philippine Islands [Mr. QUEZON], and the gentleman from Virginia—

Mr. JONES. Mr. Chairman, I hope this interruption will not be taken out of my time.

Mr. MURRAY (continuing). Be given general leave to print on this subject matter. Unless that request shall be granted to all, I shall object.

Mr. GARRETT. Mr. Chairman, I object.

Mr. MANN. Reserving the right to object, I understood the gentleman from Virginia objected to the request of the gentleman

man from New York to extend his remarks, and I am surprised he now asks leave for himself.

Mr. JONES. The gentleman from Illinois is very much mistaken. I expressly stated that I would not object if the gentleman would state what he wished to insert in the RECORD. That is a very different proposition.

Mr. MURRAY. Mr. Chairman, I object.

Mr. JONES. Well, the gentleman can do so if he so desires. In my own time, Mr. Chairman, I shall now proceed to read the proposed Philippine plank which the gentleman from New York [Mr. REDFIELD] has just erroneously stated specifically indorsed the Jones bill. Fifty copies of this resolution were typewritten at the instance of the gentleman from the Philippine Islands [Mr. QUEZON] and placed in the hands of various members of the committee on resolutions, and it will be observed that its wording completely refutes the statement made by the gentleman from New York. It bears, too, upon its face inherent and incontestable evidence that it was the identical resolution presented to and discussed by the committee on resolutions of the Baltimore convention, for the first few lines of the Philippine plank, as adopted by that convention, were copied verbatim from this proposed resolution. So I need not summon witnesses to confirm my statement, for, if confirmation be necessary, it is to be found in the resolution itself. I will now read the resolution which it has been charged specifically indorsed the Jones bill:

We reaffirm the position thrice announced by the Democracy in national convention assembled against a policy of imperialism and colonial exploitation in the Philippines or elsewhere, and favor an immediate declaration of the purpose of the people of the United States to recognize the independence of the Philippine Islands at a definite date to be fixed by Congress, retaining for ourselves such lands as are necessary for naval bases and coaling stations, and we urge upon our Government earnest effort to secure by treaty with the chief maritime powers the neutralization of the islands under a government to be established under American auspices by their people.

Now, Mr. Chairman, that completely annihilates the statement which the gentleman from New York has said he got from Senator O'GORMAN. It does more; it absolutely destroys the argument which he attempted to found on a premise shown to be false.

Mr. Chairman, if I had half an hour at my disposal, it would not suffice to answer all the misstatements made by the gentleman from New York. He stated in almost the first sentence which he uttered that the distance from here to the Philippine Islands was 15,000 miles, whilst the truth is that it is not more than 10,000 miles from Washington to the Philippines. I had supposed before the gentleman made this remarkable statement that everybody knew it was about 3,000 miles from here to San Francisco and 7,000 miles from there to Manila. The gentleman, who boasts of his accuracy of statement, is 5,000 miles out of the way on almost the first statement he makes. [Applause.]

The gentleman started out by stating that the purpose of his speech was to challenge a number of statements contained in some remarks made by me on January 28 last, one of them being that the Benguet Road was less than 20 miles long, whereas he declared it was 30 miles long. If this were true, it would be a matter of small consequence, and would in no degree lessen the force of my statement that the Philippine Commission had not only squandered millions of the public moneys of the Filipino people upon this road but that they had actually expended upon it a considerable part of the money which the Congress of the United States voted in 1903 to relieve the dire distress which then existed in the islands as a result of the ravages of the rinderpest. The gentleman broadly intimated that because I had, as he alleged, stated that the Benguet Road was 10 miles shorter than it really was no importance should be attached to any other statement made by me. This, he seemed to think, was the best method of disposing of charges which he could not meet. But his statement, inconsequential as it is, that I did not correctly state the facts as to the length of this road is not true, as I shall undertake to demonstrate. He says that the road as originally built was 30 miles in length, but that 10 of those miles have since been covered by a railroad, and that the millions which I charged to have been spent upon the 20-mile automobile road were actually expended upon the whole 30 miles.

It is true that 10 miles of the road as originally built is now covered by a railroad, and it is also, of course, true that all the money expended upon those 10 miles by the commission has been thrown away. But it is not true that any part of the money which I charged as having been spent on what is now the automobile road was expended on the 10-mile reach over which the railroad now runs. When I made that statement I meant just what I said, and I said what I meant, and I was absolutely justified in saying it. I do not know what



amount the commission threw away on the 10 miles of the Benguet road now traversed by the railroad, nor from whence it came, but I still assert that millions were expended on that portion of the road now and always used as an automobile road, the road from Camp No. 1 to Baguio, which I stated was less than 20 miles long, and which the gentleman says is exactly 20 miles long. I described the road to which I referred in my speech over and over again as the Benguet automobile road. I asserted that millions had been expended in its construction and upkeep, and this statement can not be successfully challenged by the gentleman from New York or by those from whom he obtained his information. When the bill to authorize the Philippine Government to increase the public indebtedness of the Philippine Islands, now on the calendar of this House, was being considered by the Committee on Insular Affairs, Gen. Edwards, Chief of the Bureau of Insular Affairs; Col. McIntyre, then assistant chief; and the Hon. MANUEL QUEZON, the Philippine Resident Commissioner, appeared before the committee and made statements which are to be found in the printed hearings upon that bill. These witnesses gave information as to the cost of the Benguet road. Mr. QUEZON was asked by Mr. HELM, a member of the committee, both as to the length and the cost of this road, and I asked specifically what was the distance from Camp No. 1 to Baguio. This is what the hearings disclose:

Mr. HELM. How long is the road?

Mr. QUEZON. The Benguet Road is about 10 or 12 miles—the colonel will be able to tell you.

The CHAIRMAN. How far is it from Camp 1 to Baguio?

Mr. QUEZON. I think that is about 10 or 12 miles.

Mr. HELM. Is that where the \$2,000,000 was spent?

Mr. QUEZON. Pretty nearly.

Both Gen. Edwards and Col. McIntyre were present and heard Mr. QUEZON make these statements and neither of them questioned them. They were the only statements made by anybody as to the length of the road from Camp No. 1 to Baguio and the cost of the same, and therefore the favorable report made upon the bill stated that this road was 10 or 12 miles long. This statement was based upon the uncontroverted testimony of Mr. QUEZON. It is true, and it is but fair to Gen. Edwards, to say that some time afterwards he informed me that the length of the road from Camp No. 1 to Baguio was 43 kilometers, or 20½ miles long.

This simple recital of the facts will serve to show how successfully the gentleman from New York has challenged my statement as to the length of the Benguet automobile road.

Let us see, now, if there was any error in my statement that millions have been expended upon this road, and that a large part of the money was taken from the congressional relief fund.

When Col. McIntyre, now Gen. McIntyre, testified before the Insular Affairs Committee at the hearings of which I have spoken, he filed with the committee a statement showing the "expenditures on account Benguet wagon road" up to June 30, 1911. This statement shows that they amounted to \$4,158,20.19 up to that time. It also shows that of this \$2,079,135 the sum of \$649,420.52, or nearly one-third, was taken from the congressional relief fund, to which I called attention in the speech which seems to have so greatly stirred gentlemen in and out of Congress. It shows, too, all statements to the contrary notwithstanding, that more than \$55,000 of the relief money contributed by the United States to save the Filipinos from actual starvation was expended in construction work on this road in the year 1906, and after, as is now claimed, it had been completed. Indeed, it even shows that a small part of this sacred fund was expended in 1907 in repairing this pet project of the commission. This, it must be borne in mind, was all spent prior to June 30, 1911. For in July of that year a typhoon of unprecedented severity swept over this Province, which completely destroyed some of the most costly sections of this road, they having since been rebuilt at enormous cost.

If this testimony is not sufficient to refute and confound the gentleman from New York, I will quote from the report of the Philippine Commission for 1909 to this effect:

The Government has spent \$5,000,000 constructing a road to Baguio. Upon the completion of this road the criticism which had been showered upon it for the expenditure of so much money in its construction seemed to have the effect of discouraging any further expenditure toward the development of Baguio, with the result that the Government was in the embarrassing position of having expended all this money for a road and of having spent considerable sums each year for its maintenance, but of not having provided facilities for the use by the people of the summer resort thus opened.

No wonder "criticisms" were "showered" upon the commission for expending \$2,500,000 upon the construction, and other hundreds of thousands in the maintenance of what I have described as an "automobile" and what the Chief of the Insular Affairs Bureau calls a "wagon" road to a summer resort, to enjoy which no provision had been made. Congress voted

\$3,000,000 to save the poor Filipinos from starvation, and yet the Philippine Commission expended nearly a third of it—of course with disinterested purpose and benevolent intent—to enable them, although many of them did not possess a single centavo with which to purchase an ounce of rice, to enjoy a three months' outing at aristocratic Baguio, an expensive summer resort, built at great cost, in one of the most inaccessible parts of the mountains of northern Luzon and in what is known as non-Christian and uncivilized territory.

The gentleman from New York has attempted to give us some idea of this marvelous conception of the Philippine Commission. Let me quote a few sentences from an article which the Chief of the Bureau of Insular Affairs has had inserted in a public document. They put to shame even the brilliant descriptive powers of the very accomplished gentleman himself. Baguio, this enthusiastic writer says, "is a veritable garden of the gods."

When—

Says he—

the great automobile began its late afternoon climb to the mountain top the marvelous engineering of the highway, the constant charm of the hurrying stream below, the soft colorings of the canyon, and the wonderful vistas that broke upon the vision, combined with the astonishing skill of the chauffeur to make our ride one of the enjoyable events of a lifetime.

I realize, Mr. Chairman, that I should apologize for devoting so much time to such an inconsequential subject as the length of this automobile road, but so much importance has been attached to my statement that it was less than 20 miles in length that I have felt justified in setting forth the truth in regard to it. No man can deny and few, I think, will attempt to defend the action of the commission in persisting in the construction of the Benguet road in the face of the universal opposition of the Filipino people, and certainly the expenditure of the congressional relief fund upon this work can not be justified. It is no justification to say that this money was expended in giving employment to poor Filipino laborers. The crop failures which resulted from the ravages of the rinderpest among the work cattle occurred in 1903, and not a dollar of the congressional relief fund was expended in that year for labor on the Benguet road. It was expended in the years 1904, 1905, 1906, and 1907. Moreover, there were comparatively few carabaos in Benguet, which, as I have said, is mostly inhabited by uncivilized people.

When this road was first projected it was estimated that it would cost \$75,000. It was not necessary, as has been stated, to build it in order to give the mountain tribes an outlet, for there existed what is known as the Naguilian trail, which has been used by the Benguet Igorots for ages. This trail has been converted, as we are told by the commission, at some small cost into a good cart road, and is even used by automobiles. More than this, a railroad is being built to Baguio at a cost estimated by the engineers at less than the amount expended on the shorter Benguet automobile road. This road is nearing completion, and when completed will, of course, accommodate all the travel that there will ever be between Baguio and the civilized provinces. But the automobile road, it seems, is still to be maintained in order, of course, that the poor Filipinos may not be subjected to the hardships of railroad travel.

The gentleman from New York has not only vainly attempted to show that statements made by me on the floor of this House were inaccurate, but he has even inveighed against what he describes as "that beautiful work of fiction known as the report on the Philippine independence bill," and in which he says he has failed to find an accurate statement. This is a gratuitous and wholly unwarranted attack upon the entire majority membership of the Committee on Insular Affairs. To sustain this sweeping and, as I shall conclusively show, baseless statement, the gentleman read these lines from that report:

The Philippine Constitution, written by Apolinario Mabini, and proclaimed by the Malolos Government in 1899, is justly regarded as a notable intellectual achievement.

Having given the House this illustration of what he alleged to be misstatements contained in this report, the gentleman proceeded to impeach the accuracy of the entire document by asserting that "it was not written by Mabini," and that "its chief authors were Pedro A. Paterno and Emilio Aguinaldo."

This is, indeed, a most astounding statement. It is contrary to all accepted history, and it rests wholly upon the unsupported statement of the gentleman who does not claim to possess any personal information on the subject.

I have read most, if not all, the modern histories of the Philippine Islands, and if there can be found a word in any one of them to justify the gentleman's denial that Mabini was the author of the Malolos Constitution, I have failed to find it. In Foreman's great history, entitled "The Philippine Islands," he says, on page 546 (edition of 1906), speaking of Apolinario



Mabini, "it was he who drafted the Constitution of the Philippine Republic."

It is my good fortune to have personally met most of the Filipinos who were conspicuously connected with the Malolos Government, including Gen. Aguinaldo, its president, and to have discussed with them the work of the Malolos Congress, and I have yet to meet the Filipino who does not give to Mabini the credit for having written the Malolos Constitution. It is universally acknowledged to have been a notable achievement, and even Aguinaldo would have been proud of its authorship. Is the ipse dixit of the gentleman from New York to be accepted against such testimony as this? But the fact that Mabini had written the Malolos Constitution was set forth in the report for the sole purpose of showing that this great document was the work of a Filipino. Both Paterno and Aguinaldo are Filipinos, and if it could be shown, as it has not been, and can not be, that they are entitled to the credit of producing this great State paper, it would in nowise detract from the force of the argument advanced in the report.

The gentleman from New York, having gratuitously and wholly without justification charged me with gross inaccuracy of statement, I now wish to call attention to one or two statements made by him—a man who discharges his employees for less serious inaccuracies than those which he so recklessly charged me with. He tells us he has visited the Philippine Islands. He was accompanied, he says, by his son, who visited the gold mines near Baguio. He does not tell us whether it was business or pleasure which took him to the Philippines.

Sometime last year there was published in the National Monthly an article entitled "A suggested Democratic policy for the Philippines, by Hon. WILLIAM C. REDFIELD, a Member of Congress," adorned with a handsome picture of the writer. Among other remarkable statements in that article I find this:

There are more adult male Moros than there are voters in the island, are more adult Igorots than there are voters in the island.

Elsewhere in this article this accurate gentleman states that at the second election in 1909 there were but 192,975 votes cast. There were many more cast at the last election, but I will take the gentleman's own figures. There are, according to the Philippine census, only 277,547 Moros in the Philippines, and does any sane man believe that of that number more than 192,975 are adult males? There are, according to the same authority, 211,520 Igorots, and does any man with a grain of sense believe that more than 192,975 of them are male adults? If one in five of all the Moro and Igorot inhabitants combined are male adults, which is the accepted proportion in this country, there would be only 97,513 male Moro and Igorot adults all told in the Philippines. I am aware that the gentleman now states that the number of Moros is not known, but he stated in this article that the non-Christian tribes number in excess of 600,000, which, according to the census, is true. This fairly illustrates the accuracy of statement, I will not say the gross misstatements, of the gentleman who can be so scornful when he thinks he has discovered a slight inaccuracy in the statement of another, although, as I have demonstrated, he, and not the one he would criticize, is in error.

I now come to what the gentleman from New York declares to be, at the present moment, his "own attitude on this Philippine question." These are his identical words:

I do not think that the American flag should continuously or long, as the lives of nations go, float over a dependent people. I believe, and have said it to the distinguished gentleman from the Philippines, that he and his people should be as free as I. I seek for my own son no freedom I do not want for his son. Is that plain enough? If not, then write your desire for freedom for the Filipino people as liberally as you will and I will subscribe to it. And I am in accord with not only the last but the last three Democratic platforms upon this subject. I believe that the platform of 1904 spoke the truth more plainly than the others when it said that the Philippine people should "work out their own destiny"; but I call the attention, however, of my friends on this side to those respective platforms to say that the emphasis in them rests upon one fundamental word, "stable."

The latest declaration of the Democratic Party on the subject of the Philippines is in the following words, and not even so ingenious a gentleman as the gentleman from New York can find in them any justification for the position he actually assumes, whatever his latest words may mean, in respect to Philippine independence:

We reaffirm the position thrice announced by the Democracy in national convention assembled against a policy of imperialism and colonial exploitation in the Philippines or elsewhere. We condemn the experiment in imperialism as an inexcusable blunder which has involved us in enormous expenses, brought us weakness instead of strength, and laid our Nation open to the charge of abandonment of the fundamental doctrine of self-government. We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established, such independence to be guaranteed by us until the neutralization of the islands can be secured by treaty with other powers.

In recognizing the independence of the Philippines our Government should retain such land as may be necessary for coaling stations and naval bases.

Mark these words in the platform, "We favor an immediate declaration of the Nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established." They are far more radical than the provisions of the pending independence bill, for the bill not only provides for the establishment of a stable government but insures its maintenance for eight years. The Democratic Party has promised Philippine independence as soon as a stable government has been established and not when one has been maintained for a given length of time. The bill provides ample machinery for the establishment of a stable government, and whether or not the Filipinos can successfully maintain such a government once it has been established is another and quite a different proposition. For one, I entertain no misgivings as to their ability to maintain as well as to establish a stable government, but the Democratic promise of independence is not predicated upon the maintenance for any period of time of such a stable government as may be established. It has no such sting as this attached to it.

I would not, of course, be understood as saying that the Filipinos will be able, if given their independence, to defend that independence against some strong naval power. If they are not to be free until that day arrives they will never realize the independence which has been so solemnly promised them. Few of the free and independent countries of the world could long maintain their independence against foreign aggression.

But the present position of the gentleman from New York is even more at variance with that expressed by him in the article from which I have quoted than with the declarations of the Democratic Party to which he professes to belong. In that article he states his position in these words:

When a majority of them (the Filipinos) shall be able to cast a ballot which they can read in any language, it will then be for them to decide what they wish their future relation to the United States to be.

What the gentleman doubtless meant to say was "which they can read in some," not "in any," language; for I can not believe he would be understood as desiring to withhold from the Filipinos their independence until a majority of all the adult males could read a ballot printed in any language which might be prescribed. It would be bad enough to withhold it until a majority of all Filipinos, including the uncivilized Moros and Igorots as well as the civilized Tagalogs, could read a ballot printed in either English or Spanish as the law now requires of all persons who do not possess property or certain other prescribed qualifications. The postponement of their independence until a majority of all of them could read some one language would be a more drastic provision than can be found upon the statute books of any State of the American Union, and one which would forever disfranchise many a voter who contributed toward sending to Congress the gentleman from New York. Can any Democrat truthfully say that he is in accord with his party's position as to the Philippines who holds that the Filipinos should not be granted their independence until a majority of every male adult in the archipelago, including all the savages and wild men of the mountains, are able to read their ballots? This is going a bowshot farther than anything that has ever been written in a Republican platform. It is fixing a date more distant than that proposed by President Taft. It is equivalent to saying that the Filipinos shall remain in bondage to the United States until the end of time. There may be other professing Democrats who agree with the gentleman from New York, but, if so, none has been bold enough so far to publish that fact to the world.

This, Mr. Chairman, is all I care to say in reply to the carefully prepared speeches of the gentleman from New York [Mr. REDFIELD] and the gentleman from Pennsylvania [Mr. OLMSTED]. The striking similarity of these two speeches suggests a common source of inspiration—they both bear the indubitable hall marks of the War Department, which, as all of us know, is the real governing power of the Philippines. Neither of these astute gentlemen has answered a single one of the serious charges made by me against the Philippine Government, and no attempt has been made by either to answer most of them. If, as has been recklessly and falsely asserted by others, I have made charges of maladministration against certain Government officials in the Philippines which I could not sustain, the able gentlemen who have just addressed the House ought certainly to have been able to have shown wherein I have sinned. They have taken ample time in which to prepare their speeches, and they have obviously had the benefit of such information as the War Department could supply, and yet they have not so much as attempted to answer the serious charges for making which I have been most severely criticized by persons who have only succeeded in demonstrating their own ignorance of all things touching the Philippines.



I asserted in the speech which I delivered on the 28th of January last that three prominent American officials had been charged with graft, had been found guilty by a board appointed to investigate the charges, and yet had been shielded from punishment. Has any denial of this serious charge been made by anybody, here or elsewhere?

I charged that a considerable part of the congressional relief fund of \$3,000,000 had been expended in the construction of an automobile road to a mountain summer resort, the exact sum being \$649,420.52, as I have shown. Has the correctness of this statement been challenged?

I charged that in order to avert a deficit in 1912 the sum of \$1,698,513.82 was transferred from the gold-standard fund, a fund created to maintain the parity between the silver currency of the Philippines and the gold dollar, to the general funds of the insular treasury, and this serious charge has neither been denied nor explained by anybody.

I charged that Governor General Forbes had, without warrant of law, created 123 new offices; but this, it seems, was so trivial a matter as compared with the exact length of the Benguet Road and the authorship of the Malolos constitution that no one has even noticed the charge.

I charged that our military occupation of the Philippines was costing the United States approximately \$40,000,000 a year, and I specified many of the items which go to make up that grand total, not one of which has been disputed. The American people will not always be fooled by or be satisfied with the reply that civil government in the Philippines is costing the United States nothing. Some day they will come to realize that our military and naval expenditures on account of the Philippines, which are a charge upon the Treasury of the United States, are one thing and the cost of the civil government of the Philippines, which is paid out of the revenues of the islands, is quite another thing.

I charged that the administration of civil government in the Philippines was most extravagant and wasteful, and I called particular attention to the damaging fact that the expenditures on account of bureaus and offices for the fiscal year 1912 exceeded those of the previous year by \$1,320,318.24, and that this increase was without any warrant in law; but this was too trifling a matter to call for any explanation or denial.

I think, Mr. Chairman, I have now made it quite plain that nothing I have said in regard to the civil government which we have imposed upon the Filipino people was either inaccurate or without justification. I have neither misrepresented nor slandered anybody. I have presented a few unvarnished facts, and if they constitute a "vicious attack" upon any member or members of the Philippine Commission I am not to be blamed therefor.

I now ask to be permitted to publish in connection with my remarks a portion of an interview given out by Dr. John R. McDill, of Milwaukee, which appeared in the Milwaukee Journal some time since. Dr. McDill enjoys the highest reputation as a man, and he has attained great renown as a surgeon. He is one of the leading physicians of Milwaukee, and the Journal describes him as one of the world's greatest authorities on tropical diseases. He returned to Milwaukee in July last, after a residence of 12 years in the Philippines. He is a disinterested as well as a qualified witness, and therefore anything which he has to say with regard to the Philippines must carry with it great weight.

I shall also publish a letter written by the Hon. Charles B. Elliott, of the Philippine Commission, to Auditor Phipps, of the Philippine insular government. As I have before had occasion to say, Judge Elliott was formerly a member of the Supreme Court of Minnesota, was appointed to the Supreme Bench of the Philippines by President Taft, and afterwards promoted to the commission. In this letter it is clearly shown that the action of Governor General Forbes in the disbursement of the public revenues of the islands, which I have been criticized for questioning the legality of, was absolutely unwarranted in law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. REDFIELD. Mr. Chairman, I ask unanimous consent that the gentleman from Virginia [Mr. Jones] may extend his remarks in the Record.

The CHAIRMAN. The gentleman from New York [Mr. Redfield] asks unanimous consent that the gentleman from Virginia [Mr. Jones] may extend his remarks in the Record.

Mr. MANN. Reserving the right to object, I ask unanimous consent that the gentleman from Virginia [Mr. Jones] and the gentleman from New York [Mr. Redfield] and the gentleman from the Philippines [Mr. Quezon] be allowed to extend their remarks in the Record on this subject.

Mr. JONES. Does that carry with it, Mr. Chairman, the right to publish anything we wish to publish?

Mr. MANN. I assume the gentleman would not abuse the privilege by publishing books or long documents.

Mr. JONES. I do not know. If gentlemen will indicate what they wish to publish, I shall not object. This is what I propose to do.

#### DR. McDILL'S INTERVIEW.

From February 15 to June 15 the entire Government personnel moves to Baguio, the summer capital in the mountains, where the time is pleasantly spent, enough official duties being done in the mornings only to comply with civil-service regulations. Transportation is given all employees, together with allowance to cover living expenses. Baguio is 5,000 feet high and cool and beautiful, but the Filipinos objected to these vacations as an unnecessary extravagance.

Politically the Filipinos are justifying the confidence placed in them in extending to them the higher legislative functions in their elective lower house or assembly. Their work in provincial municipal government has not been so successful. The commission or upper house, the majority of which is composed of Americans, and the lower house do not pull together so well. There is a lack of confidence and trust between them, the causes of which are not entirely racial. They could be avoided by a different attitude and a change in personnel on the side of the Americans. Until a definite policy is proclaimed by the United States there will continue to be dissatisfaction and distrust of us. The present relations between the two races are as bad or worse than ever before. One reason is because the Filipinos are a sensitive and courteous people and we are not.

The only real trouble, however, we shall ever have with the Philippines will be to let go of them. Two reasons they have not been the subject of more controversy or more interest politically in this country are the skillfully written reports of the administration there and the undoubted enthusiasm and patriotism with which the army of well-paid Philippine Government officials advocate our holding on to that country. They all say we can not back out with honor.

#### UNITED STATES SHOULD DECLARE POLICY.

If the coming national administration takes up the Philippine problem from another standpoint than that which has obtained to date, namely, whatever you do over there, do not do anything to disturb us here in Washington, the long past due declaration of our future policy will be announced.

#### JUDGE ELLIOTT'S LETTER.

DEPARTMENT OF COMMERCE AND POLICE,  
Manila, May 25, 1912.

THE SECRETARY,

MY DEAR MR. PHIPPS: At the recent meeting in the office of the Acting Governor General you asked for a copy of the memorandum, a portion of which I then read, in which I state my view as to the proper construction of section 7 of the act of Congress of July 1, 1902, reenacted February 27, 1909.

There has been considerable discussion with reference to this matter, and, as you well know, I have not been able to accept as proper the course which has been construed. When the question first arose I sent to the Governor General a memorandum which was hastily prepared, and did not assume to argue the question with any degree of fullness. Just before the Governor General left I wrote him a letter designed merely to put on record the fact of my disagreement.

In what I write I do not wish to be considered as criticizing anyone, nor as suggesting that there has been other than the most earnest effort on the part of all concerned to reach a just and proper conclusion. I have no desire to convey the impression that there is a serious disagreement among the members of the government. It is true that we have disagreed as to certain legal propositions and procedure, but that is inevitable where men are able to form opinions and willing to express them. I have not asked to have my memorandum from which I read at the meeting sent to Washington, because I fear it would give the impression that I was trying to embarrass the Governor General's administration. I do wish, however, to state to you fully the reasons for my position, more particularly because I know you do not agree with some of them.

In the act creating the Philippine Legislature, Congress provided a method by which the government could be supported in the event of the two houses of the legislature for any reason failing to agree upon a current expense appropriation bill. It was understood, of course, that the proposed assembly would be an experiment in government. The conditions were still unsettled, and it was very possible that at some time an attempt might be made by the assembly to seriously embarrass the government by withholding the supplies necessary for its maintenance.

Now, the failure to pass an appropriation bill might result either from an honest difference of opinion between the two houses or from a willful refusal by either house to agree to any appropriation bill, whether good or bad. Whatever the motives the result would be the same.

The United States was trying to establish an orderly and systematic government for the Philippines, which should be conducted on established principles. The Philippine Legislature which was to be created in the future would succeed in certain territory only to the legislative powers of the Philippine Commission. At the time of the creation of the legislature the Government would, of course, be running under the provisions of a regularly enacted appropriation bill. That bill if continued in force would provide for all the reasonable requirements of the Government and keep the machinery in operation until the legislature acted, or Congress saw fit to take more drastic action. Therefore it was provided in the act of Congress of July 4, 1902, that:

"If at the termination of any session the appropriations necessary for the support of the Government shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid."

This provision on its face contemplates nothing revolutionary; nothing radical. It is a remedial, not a punitive, measure. It provides for the contingency of an honest difference of opinion between the two houses, as well as for unreasonable or factious attempts on the part of either house to embarrass the Government by withholding the supplies necessary for its existence.

The Philippine Legislature failed to pass a current appropriation bill for the fiscal year of 1912, and at once the question of the proper construction of the above provision of the act of Congress arose. It was contended on one hand—



(a) That upon the failure of the legislature to pass an appropriation bill providing for the support of the Government, the existing appropriation bills for that purpose continued in force with all their conditions, limitations, and restrictions until the legislature acted; that the purpose of the provision was not to change the character of the Government, but with as little inconvenience as possible to provide for an interregnum, which in the ordinary course of things would be of limited duration. On the other hand it was contended:

(b) That upon the failure of the legislature to so act an amount equal to the total of the sums appropriated in the previous existing appropriation bills was deemed to be appropriated by the act of Congress out of the Philippine treasury for the support of the Government until the legislature acted, with the power in the Governor General to distribute the same for the support of the Government as its necessities required, according to existing law. A precedent for this was thought to exist in the case of *Navarro v. Post*, decided by the district court for Porto Rico in 1909 under a statute similar to that in force in the Philippines. In a letter to the Governor General under date of October 25, 1911, you as auditor of the Philippine Islands adopted the principle of this precedent with some modifications designed, as I understand it, to restrict the executive power of action.

Soon after the adjournment of the legislature the learned assistant executive secretary rendered a legal opinion to the Governor General which I find referred to in the files, but have not had the pleasure of reading. The Bureau of Insular Affairs advised that the situation was controlled by the case of *Navarro v. Post*, and your opinion above referred to was to the same general effect. It does not appear that the legal and constitutional questions involved were considered by the law officer of the Bureau of Insular Affairs, or by the Secretary of War. As the conditions were somewhat similar, it was easy and natural to assume that the Porto Rico case should be followed. I earnestly urged upon the Governor General the importance of obtaining the formal opinion of the Attorney General, who is his constitutional adviser. This was not done, nor was my suggestion that the opinion of the Attorney General of the United States be obtained given much consideration. To my mind the question involved was of the greatest legal and constitutional importance involving principles of far-reaching effect. For some time the question drifted, the Governor General, as I am informed, having advised the treasurer to continue making payments under the old appropriation bill. This was done until December 18, 1911; that is, during almost half of the fiscal year. At that time a "letter of advice" was issued which made very material changes. This letter was dated back to the beginning of the fiscal year. Subsequently on March 29, 1912, a new "letter of advice" was issued which modified that of December 16, 1911, for which it became a substitute. All of these "advices" on their face date from July 1, 1911, and as they all differ, and yet cover the same period, I can imagine some resulting confusion.

Before stating my view of the proper construction of the act of Congress I wish to comment upon the Porto Rico case. That decision is worth in the Philippines exactly what it will assay in principle and reasoning. It was the decision of a single nisi prius judge, sitting in another jurisdiction. The reasoning is far from conclusive, and the language conveys the impression that the judge was much "peevish" that anyone should assume to question the propriety of the efforts of a good governor to handle the situation all by himself. The opinion itself is devoted to the question of the right of the plaintiffs to maintain the action; that is, the right of taxpayers "to enjoin high State officials for the alleged diversion of public funds simply because in the opinion of such taxpayers a particular law ought to be differently construed than such officers are construing it." The judge is firmly of the opinion that "these officials deserve the support and commendation of all the people of Porto Rico for their faithful devotion to duty under trying circumstances." The decision upon the only question decided was undoubtedly correct, and possibly the bouquets thrown to the officials were deserved. As to the main question, however, the only one in which we are interested, the court said: "We have only gone into the question thus far with a view, in so far as may be, to end this useless and annoying interference with the conduct of the Government of the island of Porto Rico." The court held that plaintiffs had no right to maintain the action and dismissed the case. Then, there being no longer any question before the court for judicial determination, the judge decided to settle matters by doing some talking from the bench, a practice which you as a lawyer know is a dangerous one and one which generally leads to trouble. In support of the conclusion "on the main question" it is said that the Hawaiian organic act, which was passed before the Porto Rico provision, provided that if the legislature failed to pass an appropriation bill the sums appropriated in the last appropriation bill should be deemed to have been reappropriated; that the provision in the Philippine organic act differed from that in the Porto Rico act; that the Porto Rico act was copied substantially from the Philippine act; that Mr. Taft in a letter to Mr. COOPER, dated May 13, 1902, in an article in the Outlook of May 31, 1902, and again in a message to Congress of July 10, 1909, expressed the view that the provision of the Porto Rico act was intended to prevent the lower house from starving the Government; and finally that Congress "must have intended" to put the sum total in the hands of the governor for expenditure, because "it is well known that at best one year's appropriations can not be made to exactly fit the requirements of another year, and therefore it thought best to appropriate a lump sum equal to the total of the previous year for the support of the Government, leaving it to the discretion of the governor to reallocate or subdivide this money from time to time for the support of the Government until the legislature acts."

I find nothing in the history of the legislation or in the statements of Mr. Taft to suggest the conclusions reached by the Porto Rico court in its conversation with the community. It appears merely that the intention was to provide a method which would prevent the Government from being deprived of the money necessary for its continuance. That the Hawaiian act contained a different provision proves nothing to my mind other than the fact that it does contain a different provision. There is nothing, so far as I know, to show that the Hawaiian act was before the draftsman of the legislation under consideration, nor does it appear that the Hawaiian act had proven insufficient or inadequate under any emergency which arose. Mr. Taft, in his letter to Mr. COOPER, merely says that the provisions of the proposed law will prevent the popular chamber from choking the Government. In the Outlook article he says that should the appropriation bill not be passed by the legislature, "appropriations equal to those of the year before will become available without legislation." In the message to Congress transmitting the report on the Porto Rico situation he merely states in substance the language of the proposed law. I find nothing in this to aid

materially in determining the proper construction of the statute. Mr. Taft was thinking of the object of the law, and merely stated the fact that it would prevent the choking of the Government by withholding the necessary supplies.

The only argument which, to my mind, has any force arises out of the statement that the requirements of the Government for one year may differ from those of another year. It may be noted in passing that in almost all the States of the Union the legislatures meet but once in two years, and no particular difficulties result from the fact that the exact requirements of one year may differ from those of another year. It may be conceded that from the viewpoint of the Executive it is very satisfactory to be able to distribute the money according to the requirements of present conditions. It is equally true that from that point of view it would be much simpler and perhaps more desirable in the interests of efficiency to adjourn the legislature permanently and permit the Executive to handle the entire subject of appropriations. But it is safe to assume that Congress had other views, and that it realized the fact that any method which might be devised to escape from the difficulty would result in some inconvenience. Congress was providing for a condition which it fairly assumed would be temporary only.

But it is said that if Congress had intended to reenact the previous appropriation bill it would have said so clearly and distinctly. This begs the question. It may be replied with even greater force that if Congress had intended that the chief executive should have the power to allot and distribute the funds in his discretion it would have said so clearly and distinctly. It is probable that the draftsman of the Porto Rico provision was familiar with the provision of the Philippine law, which had been in force for a number of years, and that when the difficulty arose in Porto Rico the language was copied substantially and reenacted without any particular consideration being given to the matter of its construction.

Let us see what it means—this placing of the power of distributing this money in the hands of the chief executive. In the first place, it takes the legislative power away from the local legislature, contrary to the general purpose and theory of all other applicable congressional legislation. Under the Porto Rico case Congress itself makes the appropriation out of the local treasury. The executive may then re-create and reorganize the Government by creating new offices and readjusting salaries as may suit his judgment, desire, or convenience, so long as he does not repeal or violate any law which existed outside of the old appropriation bills. In considering a matter of this kind individuals must be ignored. Statutes, we all know, are generally prohibitive, and governments are largely devised and designed to protect the public against abuses of power by the occasional untrustworthy official. Now, the failure to pass an appropriation bill by the Philippine Legislature may not always be due to the desire of the assembly to choke the Government. There is another important factor which in any large view of the situation must not be overlooked. The commission, in which it may be assumed that the influence of the chief executive is probably great, has only to refuse to agree to any appropriation bill passed by the assembly, and the power of allotment for the future passes to the governor general. He and the heads of the various executive departments who spend the money and are primarily interested in the allotment of the fund can then arrange the distribution as they desire. The assembly can be eliminated from the situation and must take what the governor general chooses to give it for its own support. This is the inevitable and logical conclusion from the decision in the Porto Rico case, which we have been informed governs the present situation. The executive may spend during the succeeding period—a period which is indefinite and not measured by fiscal years—approximately \$20,000,000 for the support of the Government, according to his own discretion, free from any substantial restraints. This turns the country into the governor general's personal domain and renders possible all manner of mistakes and abuses. Every official's salary is subject to his judgment. To me this seems disorganizing and in a way revolutionary, and I can not believe that it is what Congress intended to bring about.

I am aware that in the opinion which you rendered to the Governor General certain limitations are said to be imposed upon the action of the chief executive, but I am considering the situation as it must necessarily be, in my judgment, if the principle stated in the Porto Rico case is to govern, and we have been informed from Washington that it controls. This Porto Rico case sustained the right of the governor to fix the salaries of all officials who had not been appointed by the President. Why this exception, it is difficult to understand unless it was based on policy. In the Philippines the salaries of all the officials are supposed to be fixed by the legislature, regardless of whether they are appointed by the President and confirmed by the Senate or by the Governor General and confirmed by the commission. I learned recently that instructions have come from Washington to the effect that the old schedule of salaries must be followed. If this is true, it amounts to that extent to a repudiation of the doctrine of the Porto Rico case, unless it be meant to apply only to salaries which are fixed by existing acts other than the appropriation bill.

Now, let us see how the theory adopted has worked in actual practice. It seems to me that the result has been very confusing and given rise to a number of difficulties. The results which follow a certain construction of an ambiguous law are always proper to be considered in determining whether the construction is proper and reasonable. Acting under the authority of the Porto Rico case, the Governor General in his "advice" of December 18, 1911, created many new positions and changed many salaries. This he may have had a right to do if the doctrines of that case are controlling. He created, for instance, the new position of secretary to the Governor General, at a salary of \$8,000 per annum, and the incumbent now holds the position and draws the pay without having been confirmed by the commission. This suggests infinite possibilities. By reducing the salaries of some officials and dropping other positions, ample funds may be found to pay the salary of a lord high chamberlain or a groom of the stole or any other position which the chief executive might believe the public service required. The condition may be continued indefinitely, as long as the Governor General and a majority of the commission are in accord. The assembly can not by its own will end it, because the majority of the commission may, if they choose, refuse to agree to any appropriation bill which the assembly passes, without giving reasons for their refusal. Under act 1698 new positions may be created in the service by the director of a bureau, with the approval of the secretary of the department, and in no other manner. During the past year numerous changes were made under this authority, and the Governor General's "advice" properly included the same. But, assuming to act under the authority of the act of Congress, the Governor General, in addition



thereto, created approximately 170 new positions; with salaries aggregating more than \$218,000 per annum.

The "advice" to the Treasurer, which took the form of an appropriation bill for the fiscal year 1912, bore date December 18, 1911. Certain provisions of the old appropriation bill relating to the assembly having been omitted, particularly that under which many of the members of that body were enabled to draw \$30 per day each during the recess, the assembly passed a violent resolution of censure on the Governor General, and cabled the same to Washington. It appeared that the omission had been unintentional, and the "advice" was immediately amended, and the assembly promptly subsided.

Thus matters stood until March 12, 1912, when the Governor General thought it advisable to recast his "advice." The rearranged document was antedated, and on March 29, 1912, was filed as a substitute for the previous document. It therefore was made to date in legal effect from the beginning of the fiscal year. In this document certain changes were made, as I understand, in accordance with instructions from Washington, which I have not seen. At present, then, we have an "advice" which after numerous vicissitudes has been licked into a very fair copy of the last current appropriation bill, with some changes in offices and salaries. As it stands there is probably nothing objectionable in the bill. It is certainly such a one as might very properly have been passed by the legislature. But one who attempts to follow the course of its history will be strengthened in his belief that in matters of government it is better to be controlled by a definite law than by the discretionary will of even a wise man.

After the original letter of "advice" was filed the Governor General sent to the commission the name of his private secretary to be secretary to the Governor General, at a salary of \$8,000 per annum, to date from July 1, 1911; that is, over a period during which he had been filling another position as private secretary to the Governor General. Upon the suggestion that no such office as secretary to the Governor General could be created without the action of the legislature, the nomination or motion was withdrawn. Thereupon a committee was appointed, with instructions to furnish a "memorandum as to who may be classed as Government officials and who as employees in the service." This committee reported that "after exhaustive investigation of the decisions of the supreme courts of the various States and of the Supreme Court of the United States, we conclude that only those persons are public officials who occupy positions in the public service created by statute, the duties of which are defined thereby. All persons in the Government service who do not come within the foregoing definition are held to be employees."

However this may be, the conclusion of the committee opened an inviting way for the Governor General to create any number of positions, with such titles, duties, and salaries as to him seemed best. Should the question whether the occupant was a public officer be raised, and the assertion made that his appointment should be subject to confirmation by the commission, it would be necessary only to reply that the position was not created by statute, and that therefore the occupant was an employee only. The situation was thus left wide open in one direction at least.

There is another matter to which I would invite your attention. Under the doctrine of the Porto Rico case, the temptation to enter upon the field of general legislation is almost irresistible. When the former appropriation bill expired it carried with it all its provisions regulating the manner of expending the appropriated funds, and also all provisions of a general nature which had been inserted in previous bills. I do not construe any of those provisions as permanent legislation, and my view is strengthened by the fact that the legislature has thought fit to repeat them in each successive appropriation bill. Under the system which has grown up it was difficult to operate without these provisions, and we find that although by the terms of the act of Congress the money can only be used for the support of the government, it is provided in the Governor General's letter of "advice" that, "subject to the approval of the head of the proper department, chiefs of bureaus or offices may expend on permanent improvements funds herein allotted for current expenses." This seems to require no comment.

I think the whole procedure has been a mistake. After careful consideration of the language of the act of Congress in the light of the history of its enactment, and the general principles which under the American system are supposed to control the action of the executive and legislative bodies, I am forced to the conclusion that the effect of the failure to provide for the support of the government is merely to continue the existing appropriation bills in force until such time as the legislature passes a new one. No other construction is consistent with the nature and form of the government which Congress was creating in the Philippines, or the object which it was seeking to accomplish. I realize and concede that the language of the act is ambiguous, otherwise we would not be engaged in this discussion, and that much can be said in favor of the other view. I realize also that some inconvenience may result from changed conditions, but I think this is easily exaggerated. It is very improbable that during such an interregnum any real necessity will arise for abolishing, changing, or consolidating any of the bureaus of the government, nor is it probable that any great emergency will arise. If such should be the fact, it is always possible and proper for the Governor General to convene an extra session of the legislature to act upon the new conditions.

The mere desire to make changes in the organization of the government will not create the necessity for so doing. Very seldom, in fact, would the extension of the current appropriation bills for even a year produce any particular confusion. In the United States, as already observed, the legislatures meet ordinarily but once in two years, and no difficulties seem to arise in making appropriations applicable during that period. To me the language of the act of Congress seems rather casual. It is such language as might have been used in providing for a brief interregnum, during which existing conditions were as far as possible to be continued. The procedure is not carefully worked out. It is provided that the treasurer may, with the advice of the governor, out of the total sum which shall be deemed to be appropriated—that is, appropriated by the Philippine Legislature—make the payments necessary for the support of the government. The primary responsibility seems to be thrown on the treasurer, as advice is one of the things which need not be and generally is not accepted. It implies discretion in the person advised. The provision with reference to the action of the treasurer follows the language commonly used in the United States, where the auditors and comptrollers are subordinates of the Treasurer. As here used, it undoubtedly implies that before the treasurer makes the payments the accounts shall have passed through the auditor's office in the ordinary routine of business. To strike out the word "advice" and substitute therefor the word "direction" appears to me a mere

tour de force. If Congress had intended to place the matter entirely in the hands of the governor, it would have used the word or words naturally appropriate for that purpose.

It is true that Congress did not say in so many words that the existing appropriation bill should remain in force. Neither did it say that it should not remain in force. It is inconceivable that Congress when it used this language intended to confer upon the chief executive the legislative power to apportion and disburse the total fund available for the support of the government. An appropriation "is the formal act of the people through their representatives whereby public funds are set aside to be used for certain specified purposes." In 1902, when the act in question was passed, matters of great importance in the Philippine Government were generally referred to the United States Philippine Commission either for action, advice, or confirmation. Numerous illustrations of this will be found in the statute. As late as 1909 Congress provided that, until action by the Philippine Legislature approved by Congress, the internal revenue paid into the Insular treasury should be allotted and paid out by the Philippine Commission. When Congress was thus careful to keep this legislative power in a legislative body, is it conceivable that by ambiguous language it intended to place in the hands of the chief executive, without even the advice of the commission, the great power of taking a large sum of money and operating the government?

The treasurer at the end of a session of the legislature would always be engaged in paying out the money under existing appropriation bills. In my judgment, he was by this act of Congress authorized, in pursuance of the established routine, to continue doing the same during a period which it was naturally inferred would be comparatively brief. As difficulties might be expected to arise under the new conditions, it was provided that the treasurer should have the advice of the chief executive. Inferentially, of course, it may be assumed that he would follow such advice. There is no reference in the act of Congress to another fiscal year, and in my judgment there is not a shadow of authority for the executive to fix up a complete new bill for the entire fiscal year. The Philippine act authorizes the treasurer to make the payments only during the time which may elapse from the termination of any session until the legislature shall act. The Porto Rico act, which we are assuming was modeled on the Philippine act, provided for a new condition by authorizing the use of the gross amount appropriated for the support of the Government during the next fiscal year. But the Philippine act makes no reference to fiscal years. It is impossible to make a new allotment or advice "from the termination of any session until the legislature shall act." This is indefinite and indeterminate in advance of the action of the legislature.

Again, the Governor General's "advice" is dated December 18, 1911, and was made retroactive to the beginning of the fiscal year. If the old appropriation bill was not continued in force by the operation of the law, under what authority were payments being made for the support of the Government between June 30 and December 18, 1911? I have recently been informed that this was done under the authority of a letter from the Governor General, directing payment of money in accordance with the previous appropriation bill. If so, this is another illustration of the casual way in which, under the theory adopted, matters of such immense importance may be handled by the chief executive. If such a letter was sent, we have then the old appropriation bill being, in substance, in force by virtue of the Governor General's letter to the treasurer from July 1, 1911, to December 18, 1911. On that date the first letter of "advice" was issued, and dated back to the beginning of the fiscal year. In March another letter of "advice" was prepared, differing in terms from either of the former, that, too, taking effect from the first of the fiscal year, the period thus being covered by three legal layers, the last in each case covering and presumably obliterating the former.

The point has been made that if the old appropriation bill remains in force the executive is required to expend all the money appropriated for the particular items designated in the bill. If so, it would be a mere continuance of the conditions created by the legislature, but I know of no law which makes it absolutely incumbent upon the executive to actually spend during any particular time money appropriated for a specific purpose. If such is the law, it is generally disregarded, here as well as elsewhere, as evidenced by the innumerable unexpended appropriations and balances of appropriations constantly appearing upon the books of the government.

Again, in closing let me say that it is quite clear to me that Congress intended that the existing appropriation bills for the support of the government should be continued in force from the end of the session until action by the legislature. The inconveniences which this would produce are slight and insignificant compared with those which would result from the application of any other theory. Most of the inconveniences are purely imaginary, and arise only out of the desire to make changes which have not been authorized by the legislature. It is not probable that during the time such a condition would exist there will be any great changes in the relative importance of the different bureaus or that it will be necessary to transfer bodily the work of one bureau to another. Such radical changes would require legislative action, and it may be assumed that if the legislature took such action it would provide the money necessary to make it effective.

Very sincerely, yours,

CHARLES B. ELLIOTT,  
Secretary of Commerce and Police.

Mr. W. H. PHIPPS, Insular Auditor.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the gentleman from New York [Mr. REDFIELD], the gentleman from Virginia [Mr. JONES], and the Commissioner from the Philippines [Mr. QUEZON] be permitted to extend their remarks in the RECORD without limitation. Is there objection?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That the following sums be, and they are hereby, severally appropriated, in full compensation for the Diplomatic and Consular Service for the fiscal year ending June 30, 1914, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, namely:

Mr. LONGWORTH. Mr. Chairman, I desire to offer an amendment at this point unless the gentleman from New York

[Mr. LEVY], a member of the committee, who I understand contemplates offering an amendment, prefers to offer it himself, in which case I yield to him. I think this is a proper place to offer the amendment.

Mr. LEVY. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from New York [Mr. LEVY] offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 1, after line 8, insert the following:

"That there be, and are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the following sums for the purposes hereinafter stated, to wit:

"For the purchase of a site and the construction of a building thereon at the City of Mexico, and for the furnishing of the building, or, as to the Secretary of State may seem best, for the purchase at said city of a site and a building already erected, and for the alteration, repair, and furnishing of such building, and the construction of an addition thereto if necessary, for the use of the embassy to Mexico, both as the residence of the diplomatic officials and for the offices of the embassy, \$150,000;

"For the construction of a building, on ground now held by the Government of the United States at Tokyo, Japan, for the use of the embassy to Japan, both as a residence of the diplomatic officers and for the offices of the embassy, and for furnishing the same, \$150,000;

"For the purchase of a site and building at Berne, Switzerland, for the use of the legation to Switzerland, both as the residence of the diplomatic officials and for the offices of the legation, and for the alteration, repair, and furnishing of the building, and the construction of an addition thereto, \$140,000;

"For the purchase of a site and the construction of a building thereon at Hankow, China, for the use of the consulate general at Hankow, and for the furnishing of the building, \$60,000.

"In all, \$500,000."

Mr. GARNER. Mr. Chairman, I make a point of order against that amendment.

Mr. MADDEN. It is not subject to a point of order.

Mr. GARNER. It is not authorized by law.

Mr. MADDEN. It is.

Mr. GARNER. Well, it does not belong in this bill. It may be authorized by law, but the law did not authorize this appropriation committee to carry this item in their bill.

Mr. MADDEN. The gentleman does not contend there is no law to direct the purchasing of sites?

Mr. LEVY. Mr. Chairman, an act of Congress approved February 7, 1911, provides for the purchase or erection within certain limits of cost of embassy, legation, or consular buildings abroad, and authorizes the Secretary of State to acquire in foreign countries such sites and buildings for the use of the diplomatic and consular establishments of the United States. This act appropriated the sum of \$2,000,000, of which not more than \$500,000 should be expended in any one year. In my opinion, Mr. Chairman, the amendment which I have just offered is therefore germane to the bill and not subject to a point of order.

Mr. BORLAND. Mr. Chairman, even though this may be authorized under a general act passed by Congress for such an appropriation, it does not belong in this bill. This bill is for the purpose of making provision for the diplomatic establishment. This is not for the construction of buildings in this country or any other country.

Mr. LONGWORTH. Mr. Chairman, has the gentleman concluded?

The CHAIRMAN. Has the gentleman from Missouri concluded?

Mr. BORLAND. Yes.

Mr. LONGWORTH. Mr. Chairman, this appropriation is justified by existing law. In fact, the existing law was designed to make in order such appropriations as this on the diplomatic and consular appropriation bill. The bill, as I happen to know, was drawn for that purpose. It was submitted to the then Clerk at the Speaker's table, the most eminent authority on parliamentary law in this country, and by him passed upon. It was designed for the purpose of making in order at any time when the diplomatic and consular bill was before the House an appropriation to acquire sites for consular and diplomatic buildings abroad.

Now, the gentleman from Missouri [Mr. BORLAND] says that this is not the proper bill for it. As a matter of fact, wherever we have heretofore acquired a site or a building abroad it has been in the diplomatic and consular appropriation bill by unanimous consent—

Mr. BORLAND. By unanimous consent; yes—

Mr. LONGWORTH. Because a point of order at that time lay, there being no existing law on the subject. But the so-called Lowden bill, which passed in February, 1911, provided specifically the authorization for appropriations of this kind.

Now, the reason for offering this amendment—the reason which I have no doubt animated the gentleman from New York [Mr. LEVY] and which animated me—is that unless this item can be considered now, and in this bill, it can not be considered

at this Congress. A bill, however, from which the gentleman from New York took his amendment was introduced in this House by a recent Member of the House, now the honored governor of New York, Mr. Sulzer. It was adopted unanimously in the Committee on Foreign Affairs. It is on the calendar, and this is simply taking the appropriating sections of that bill and offering them at this time.

Mr. BORLAND. The gentleman admits that that was introduced by the Committee on Foreign Affairs?

Mr. LONGWORTH. Yes; and plainly it is a matter that falls under the appropriation that we are now considering.

Mr. MANN. Mr. Chairman, by the act of Congress approved February 17, 1911, found in Thirty-sixth Statutes at Large, page 917, it was provided—

That the Secretary of State be, and he is hereby, authorized to acquire in foreign countries such sites and buildings as may be appropriated for by Congress for the use of the diplomatic and consular establishments of the United States, and to alter, repair, and furnish the said buildings—

And so forth, with certain limitations. One limitation was that the amount to be appropriated in any one year shall not exceed \$500,000, and there was the further provision that the limit of cost at any one place should not exceed \$100,000.

Following that law, the Secretary of the Treasury, at the request of the Secretary of State, in strict conformity with the statute in regard to estimates, transmitted to Congress, through the Speaker of the House of Representatives, an estimate under date of January 17, 1912, and that estimate was referred to the Committee on Foreign Affairs. The Committee on Foreign Affairs therefore had jurisdiction over that subject matter, it having been referred to it by Congress. Any committee having general jurisdiction of both legislation and appropriations might bring in a provision by special bill for an appropriation, although if it did, it would not be a privileged bill, and hence could not be called up. But the committee having jurisdiction, the estimate being for the Diplomatic and Consular Service, the appropriation properly belongs in the diplomatic and consular appropriation bill.

I will send to the Chairman a copy of the estimate, if he has not seen it.

The CHAIRMAN. The Chair has the statute before him.

Mr. MANN. The Chair has the statute, but probably not the estimate.

The CHAIRMAN. Does the gentleman from Virginia desire to be heard?

Mr. FLOOD of Virginia. Mr. Chairman, there seems to be no doubt about the fact that the amendment is in order. I did not raise the point of order against it.

The CHAIRMAN. The Chair is ready to rule. The point of order is overruled, and the question is on agreeing to the amendment.

Mr. FLOOD of Virginia. Mr. Chairman, I do not think the committee ought to adopt this amendment, although I am in favor of the policy outlined in it. The bill that was introduced as an amendment here was offered at the last session of Congress by a gentleman who was then here as a Representative from New York, Mr. Sulzer, and the Committee on Foreign Affairs made a careful investigation of it and made a report to this House favoring the appropriation of half a million dollars.

I drew the report and submitted it to the House, and at that time, if we could have reached the bill, the committee would have supported it.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. FLOOD of Virginia. Yes.

Mr. MADDEN. Does the committee recommend any appropriation for embassy buildings anywhere?

Mr. FLOOD of Virginia. No; the committee does not. The committee did recommend these appropriations a year ago, but our appropriations have gone so far beyond what we expected now that I believe I am speaking for the committee when I say that they are opposed to this amendment. Certainly a very considerable majority of the members of the committee are, and I hope the Committee of the Whole will vote down the amendment.

Mr. MANN. I ask for a division of the amendment. There are four propositions in it.

Mr. LONGWORTH. Before that is done—

Mr. SLAYDEN. Will the gentleman restate the provisions of the amendment?

Mr. MANN. There is a provision for an embassy building at the City of Mexico, \$150,000; at Tokyo, Japan, \$150,000; at Berne, Switzerland, \$140,000; and at Hankow, China, for \$60,000. I think we might afford to locate one at Mexico City.

Mr. KENDALL. There is no objection to dividing the amendment, is there?

Mr. FLOOD of Virginia. No.



Mr. LONGWORTH. Not at all; but I want to suggest to the gentleman from New York [Mr. LEVY] that he withdraw the fore part of his amendment, which is merely a repetition of the appropriating clause at the beginning of the bill. I ask unanimous consent that the appropriating clause at the beginning of the amendment be stricken out, as it is already contained in the bill.

The CHAIRMAN. If there be no objection, the request of the gentleman will be complied with. The Clerk will report the first substantive proposition in the amendment.

The Clerk read as follows:

Page 1, after line 8, insert the following:

"For the purchase of a site and the construction of a building thereon at the City of Mexico, and for the furnishing of the building, or, as to the Secretary of State may seem best, for the purchase at said city of a site and a building already erected, and for the alteration, repair, and furnishing of such building, and the construction of an addition thereto if necessary, for the use of the embassy to Mexico, both as the residence of the diplomatic officials and for the offices of the embassy, \$150,000."

The CHAIRMAN. The question is on agreeing to the amendment reported.

Mr. BORLAND. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BORLAND. Has the Chair ruled that the question is divisible?

The CHAIRMAN. The Chair thinks it is divisible.

Mr. BORLAND. Are we voting separately now?

The CHAIRMAN. We are voting on the first proposition, which has been reported by the Clerk.

The question being taken, on a division (demanded by Mr. BORLAND and Mr. FOSTER) there were—ayes 33, noes 37.

Mr. LONGWORTH. I ask for tellers, Mr. Chairman.

Tellers were ordered, and the Chairman appointed Mr. Flood of Virginia and Mr. LONGWORTH.

The committee again divided; and the tellers reported—ayes 42, noes 51.

Accordingly the amendment was rejected.

The CHAIRMAN. The Clerk will report the next substantive proposition.

The Clerk read as follows:

For the construction of a building, on ground now held by the Government of the United States at Tokyo, Japan, for the use of the embassy to Japan, both as a residence of the diplomatic officers and for the offices of the embassy, and for furnishing the same, \$150,000.

Mr. FLOOD of Virginia. I suggest to the gentleman from New York that the test vote on this whole proposition has been taken, and it has been lost.

Mr. MANN. The gentleman evidently did not understand why we asked for a division of the question.

Mr. KENDALL. Will not the gentleman consent that the other three amendments be voted on en bloc?

Mr. MANN. Let us have the regular order.

The question being taken, the amendment was rejected.

The CHAIRMAN. The Clerk will report the next substantive proposition.

The Clerk read as follows:

For the purchase of a site and building at Berne, Switzerland, for the use of the legation to Switzerland, both as the residence of the diplomatic officials and for the offices of the legation, and for the alteration, repair, and furnishing of the building, and the construction of an addition thereto, \$140,000.

The question being taken, the amendment was rejected.

The CHAIRMAN. The Clerk will report the next substantive proposition.

The Clerk read as follows:

For the purchase of a site and the construction of a building thereon at Hankow, China, for the use of the consulate general at Hankow and for the furnishing of the building, \$60,000.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. LEVY) there were—ayes 27, noes 47.

So the amendment was lost.

The Clerk read as follows:

Chargés d'affaires ad interim, \$50,000.

Mr. HAMLIN. Mr. Chairman, I reserve a point of order. I want to ask the chairman what is the necessity of increasing this amount, line 22, \$5,000?

Mr. FLOOD of Virginia. The committee thought that there would probably be more of the secretaries acting as chargés d'affaires during the next 12 months than had been the case heretofore, as there is to be a change of administration, and all the ambassadors and ministers will probably send in their resignations, and during that time when the positions are not filled the secretary will act as chargé d'affaires, and therefore there will be a greater charge on this fund. Generally they have spent somewhere near this amount. I think last year it was

\$48,000. We thought that would be a small enough amount to provide for them.

Mr. HAMLIN. Did the committee have anything to base the estimate on, or is it guesswork?

Mr. FLOOD of Virginia. Last year the expenditures from this fund were \$48,000, and this year there will be a greater change in the diplomatic corps than there has been for the past 16 years.

Mr. HAMLIN. I understand that.

Mr. FLOOD of Virginia. This is only an increase of \$5,000 over the amount carried for the current year and only \$2,000 over the amount that was spent during the fiscal year of 1912. We thought that was certainly little enough to appropriate for that purpose. This fund is so used that whenever it is used it saves money to our Treasury, because these secretaries while acting as chargés d'affaires only get one-half of the salary of the ambassador or the minister, and the ambassador and the minister frequently are not getting salary during that time.

Mr. HAMLIN. But usually they are, are they not?

Mr. FLOOD of Virginia. No; as a matter of fact, the use of this fund has saved more than the fund itself.

Mr. FOSTER. Mr. Chairman, I desire to call the attention of the gentleman from Virginia, the chairman of the committee, to the fact that this total of \$560,000 should be \$560,500.

Mr. FLOOD of Virginia. The gentleman is right about that; I was going to correct it by an amendment. I offer an amendment so that the total will read, in line 23, "\$560,500."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 23, strike out the figures "\$560,000" and insert in lieu thereof "\$560,500."

The amendment was agreed to.

The Clerk read as follows:

SALARIES OF DIPLOMATIC AND CONSULAR OFFICERS WHILE RECEIVING INSTRUCTIONS AND MAKING TRANSITS.

To pay the salaries of ambassadors, ministers, consuls, and other officers of the United States for the periods actually and necessarily occupied in receiving instructions and in making transits to and from their posts, and while awaiting recognition and authority to act, in pursuance of the provisions of section 1740 of the Revised Statutes, so much as may be necessary for the fiscal year ending June 30, 1914, is hereby appropriated.

Mr. FOSTER. Mr. Chairman, I reserve a point of order. I would like to ask the reason for the additional language in that paragraph, "for the fiscal year ending June 30, 1914, is hereby appropriated."

Mr. MANN. It does not do any harm and it does not do any good.

Mr. FLOOD of Virginia. I had not noticed it. That is the year it is appropriated for. It is not necessary.

Mr. FOSTER. I suggest that it be stricken out.

Mr. FLOOD of Virginia. Mr. Chairman, I move to strike out, after the word "necessary," in line 21, the remainder of the paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 21, strike out, after the word "necessary," the remainder of the paragraph.

The amendment was agreed to.

The Clerk read as follows:

For the payment of the cost of tuition of student interpreters at the legation to China, at the rate of \$180 per annum each, to be immediately available, \$1,800.

Mr. FOSTER. Mr. Chairman, I reserve a point of order on the paragraph, page 6, line 3.

Mr. FLOOD of Virginia. Mr. Chairman, we have been paying for the tuition of these students \$125 a year, but information was furnished the committee by the State Department that they could not get instructors for \$125 a year. It seems that an instructor can only teach one student at a time, and the compensation he gets for teaching that student is all of his compensation for the year. They are unable to get them for \$125, and they ask that it be increased to \$180, and that makes the increase in the appropriation of \$550.

Mr. COX. Are these teachers Chinamen?

Mr. FLOOD of Virginia. They are Chinese instructors, who teach these students the Chinese language. Some of them are natives and others are foreigners who know the Chinese language.

Mr. COX. Is there any law for this appropriation at all?

Mr. FLOOD of Virginia. No; there is not.

Mr. COX. They are already paid a salary of \$1,000.

Mr. FLOOD of Virginia. Not the instructors.

Mr. COX. I mean the students.

Mr. TOWNSEND. That is the salary to the student. This is for his tuition.

Mr. COX. What right have we got to charge that amount for the tuition of those students over there? Why impose that burden on the people of this country?

Mr. FLOOD of Virginia. It is necessary because we have to teach some one the Chinese language, so as to get into our legation and consulates people who will know that language. We do not want to turn our business affairs over there to Chinamen. We want to get Americans who are familiar with the language, and unless we provide for the expenses of these students to study the Chinese language we will not be able to get anyone qualified to act as interpreters in our legation and consulates.

Mr. COX. Is there not a large number of students now who are pressing to get into this service and willing to pay their own tuition?

Mr. FLOOD of Virginia. If there are, I have never heard of them. I do not think the gentleman from Indiana could mention anyone.

Mr. COX. I know I did my best to get some one in some of the other Governments, and I failed to do it.

Mr. FLOOD of Virginia. I will say to the gentleman that there are very few Governments at which we provide for these students. China, Turkey, and Japan are the only ones. Of course, if you wanted to pay a young man \$1,000 a year to go abroad to learn the French language, it would be very easy to get them in plenty, but it is quite a different situation with these eastern languages.

Mr. SLAYDEN. Would it not be easy to get plenty of young men who already know French to go into that service?

Mr. FLOOD of Virginia. Of course—

Mr. BORLAND. Mr. Chairman, will the gentleman yield?

Mr. FLOOD of Virginia. Certainly.

Mr. BORLAND. What is the idea in making the amount immediately available?

Mr. FLOOD of Virginia. Because they have not been able to get instructors for \$125 a year. That money has passed into the Treasury, and this is needed so the instruction can go right on.

Mr. BORLAND. Are there no instructors now?

Mr. KENDALL. Mr. Chairman, if the gentleman from Virginia will permit, I would suggest that the answer to the question of the gentleman from Missouri is quite obvious on page 42 of the hearings.

Mr. FLOOD of Virginia. Mr. Chairman, I will ask the gentleman to read it.

Mr. KENDALL. That question was asked Mr. Carr, and he replied:

The minister says they can not get proper tuition on account of the increase in price, and they want to get the kind of tuition they had formerly, and if the appropriation is made available they would be able to start now instead of waiting until the 1st of July.

It is a perfectly obvious business reason.

Mr. BORLAND. Is not this properly a deficiency appropriation?

Mr. KENDALL. It is inconceivable why it should be any place except in this bill.

Mr. FOSTER. It is undoubtedly a deficiency appropriation.

Mr. HAMILTON of Michigan. Mr. Chairman, will the gentleman yield?

Mr. FLOOD of Virginia. Yes.

Mr. HAMILTON of Michigan. How long does it take these instructors to teach a student to speak the language?

Mr. FLOOD of Virginia. I do not know that I could answer that question.

Mr. HAMILTON of Michigan. It takes at least a year, does it not?

Mr. FLOOD of Virginia. It takes at least two years, and it would depend very much on the intelligence of the student whether he would learn it in that time.

Mr. HAMILTON of Michigan. The salary allowed heretofore has been the munificent salary of \$125 a year.

Mr. FLOOD of Virginia. Yes; and now we propose to make it \$180 a year.

Mr. HAMILTON of Michigan. I had it in mind to ask my friend from Virginia whether that salary was in keeping with the wages and salaries paid in China, on the whole?

Mr. GARNER. Mr. Chairman, this is a discussion that is proceeding by unanimous consent, I take it.

The CHAIRMAN. Does the gentleman from Michigan yield to the gentleman from Texas?

Mr. HAMILTON of Michigan. Oh, no. I was asking the gentleman from Virginia a question.

Mr. FLOOD of Virginia. One hundred and eighty dollars a year would be. I do not think \$125 a year would be.

Mr. GARNER. This discussion is proceeding now by unanimous consent, I presume, as a point of order has been made by the gentleman from Illinois.

Mr. FOSTER. The point of order was reserved.

Mr. FLOOD of Virginia. I think it would be unwise not to allow this \$550.

The CHAIRMAN. Does the gentleman from Illinois make the point of order?

Mr. MANN. Mr. Chairman, I will ask the gentleman to reserve his point of order.

Mr. FOSTER. Very well.

Mr. MANN. Mr. Chairman, is the gentleman able to tell us how many of these persons who have been student interpreters are now employed in the service of the Government?

Mr. FLOOD of Virginia. I can not; but there must be quite a number of them in the service. They are promoted to the Consular and Diplomatic Service.

Mr. TOWNSEND. It appears in the items.

Mr. FLOOD of Virginia. No; I do not think so.

Mr. GARNER. There are about 50 per cent of them who do not remain in the service.

Mr. MANN. This is for the year; how long do they act as students?

Mr. GARNER. You mean how long they are paid a salary of \$1,000?

Mr. MANN. Yes.

Mr. GARNER. I do not know that the committee secured that information; if they did I do not recall it. I am advised that it is about two years.

Mr. MANN. The gentleman does not know how many now are at the various consulates acting as interpreters or acting in any other clerical capacity?

Mr. GARNER. Mr. Carr did not state just how many students have gone out of this so-called school into the service and were still in the service, but he did impress upon the committee the idea that it was absolutely important for the service in China, Japan, and Turkey that they should undertake to educate these young men in the language, and then he hoped that sufficient salary would be paid them to continue them in the service.

Mr. MANN. I made the same inquiry last year. It is true the distinguished governor of New York, then chairman of the committee, is not now the chairman of the committee, but we were given to understand last year that this year we would be able to get that information. I do not criticize the committee for not having it, but I hope that some time or other we will ascertain how many of these student interpreters we retain in the service, and whether we are giving them an education in the different languages for our own benefit or for their benefit.

Mr. FLOOD of Virginia. I will state to the gentleman as far as the State Department knows I will get the information and give it to him within a few days. The State Department may not be able to give me the information, and, of course, if it can not do that, I will not be able to give it to the gentleman.

Mr. MANN. I do not ask the gentleman to give it to me individually. I think it ought to be given to the House at some time when the bill is under consideration.

Mr. KENDALL. The gentleman from Illinois will notice these interpreters are obligated by this bill to remain five years.

Mr. MANN. That is it—if they only stayed in a year they would have 50 in consulates, and that is more consulates than we have in China. It is desirable to know whether in fact these men remain in the service or whether, under the title of student interpreters, means are afforded for them to get an education and they then go out of the service.

Mr. FLOOD of Virginia. I expect it is very much like the young gentlemen we have at West Point and Annapolis—a good many of them stay in the service and a good many go out.

Mr. MANN. But we know every year how many stay in the service and how many go out.

Mr. FLOOD of Virginia. And I will say, further, to the gentleman that a good many of these student interpreters are getting in the Consular and Diplomatic Service and are holding responsible consular or diplomatic positions. That is one reason why they are educating them so thoroughly in these languages to enable them to do so.

Mr. FOSTER. Mr. Chairman, I will say that the language in this proviso on pages 5 and 6, in my judgment, is such that these young men after they are educated are not required to go into the service, but only as the Government may need them. Of course if they do not need 50 or do not need more than 10 of them they go out of the service.

Mr. MANN. But my colleague knows we have only 15 consulates in all of China.



Mr. FOSTER. I know, and if my colleague will observe this language, it says, "as long as his services may be required within a period of five years." If they do not want them, they do not take them, and they could accept some other employment.

Mr. MANN. Undoubtedly they need to have 10 student interpreters studying all the time. The purpose is, I conceive, to maintain one, two, or even three at 15 different consulates, and that is all we have in China.

Mr. FOSTER. I think my colleague is correct; we do not need that number, but it is like one of those things that gets on a bill one year and keeps on year after year and is never abandoned.

Mr. TOWNSEND. I will suggest to the gentleman from Illinois that these student interpreters are not only useful in the consulates in China, and, of course, are almost equally useful in Japan, but in many portions of the Far East where the consuls would have business that would frequently require assistants who could speak the language.

Mr. FOSTER. We furnish them in Japan, too.

Mr. GARNER. And in Turkey.

Mr. TOWNSEND. I did not convey my meaning to the gentleman from Illinois [Mr. FOSTER]. They are with the consuls in Japan, who equally have reasons for the assistance of interpreters who speak Chinese. The gentleman can easily see they might be almost as essential as those who speak Japanese.

Mr. FOSTER. It is a very good opportunity, I will say to my friend from New Jersey [Mr. TOWNSEND], under the guise of this appropriation to educate a good many young men over there who might be very useful in a business way.

Mr. TOWNSEND. The gentleman is in favor of education of all kinds?

Mr. FOSTER. I am; but I do not believe the National Government ought to go into that.

Mr. HARRISON of Mississippi. Will the gentleman yield?

Mr. FLOOD of Virginia. I yield.

Mr. HARRISON of Mississippi. In answer to a question in the hearings as to how long it would take to learn the language there it is said that it would take about two years.

Mr. MANN. If my colleague would yield for a moment.

Mr. FOSTER. Yes, sir.

Mr. MANN. I have just gone through the list of the number of interpreters we have at all the Chinese consulates and we are now employing 10; not student interpreters, but 10 interpreters, as the result of having been student interpreters, if we have them—and I do not know whether we have them or not—for a great many years. We only need student interpreters. They get salaries running from \$1,200 to \$1,500 a year to possibly \$2,000.

Mr. FOSTER. I will state, Mr. Chairman, that this appropriation provides for an increase of salary here, which, of course, is subject to a point of order; but I judge one instructor could instruct all of these 10.

Mr. FLOOD of Virginia. The gentleman is mistaken.

Mr. FOSTER. If not, he ought to do so. There is no use of hiring two or three instructors to instruct these men in this particular line of work.

Mr. KAHN. Are there not a good many dialects in China, and do you not require different teachers for the different dialects, and to be an efficient interpreter, should not a man know all the different dialects?

Mr. FLOOD of Virginia. For the reason indicated by the gentleman, and for other reasons, one teacher only has charge of these students. That was the statement made before the committee, and I suppose it is correct.

Mr. FOSTER. Are these students taught by the natives or those who have gone over and learned the language, like the missionaries?

Mr. FLOOD of Virginia. They are partly taught by natives and partly by missionaries.

Mr. FOSTER. Mr. Chairman, I am not going to object to this increase of salary, because possibly it may be necessary, but I admonish the committee to give us a little more information on this matter another year. But I wish to make a point of order on the language "to be immediately available."

The CHAIRMAN. The gentleman from Illinois makes a point of order on the words in the last line, "to be immediately available." Does the gentleman from Virginia, the chairman of the committee [Mr. FLOOD], know any law authorizing it?

Mr. FLOOD of Virginia. No, sir; not at all.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

#### CONTINGENT EXPENSES, FOREIGN MISSIONS.

To enable the President to provide, at the public expense, all such stationery, blanks, records, and other books, seals, presses, flags, and signs as he shall think necessary for the several embassies and legations in the transaction of their business, and also for rent, repairs, postage, telegrams, furniture, typewriters, including exchange of same, messenger service, compensation of kavasses, guards, dragomans, and porters, including compensation of interpreters, and the compensation of dispatch agents at London, New York, San Francisco, and New Orleans, and for traveling and miscellaneous expenses of embassies and legations, and for printing in the Department of State, and for loss on bills of exchange to and from embassies and legations, \$355,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word for the purpose of getting technical information from such a high source as the Committee on Foreign Affairs. I would like to inquire of the gentleman how the word "e-m-b-a-s-s-y" is properly pronounced?

Mr. FLOOD of Virginia. What does the gentleman wish to know?

Mr. MANN. There seems to be some difference of understanding as to the pronunciation of the word "embassy," whether it is *embassy* or *embassy*.

Mr. FLOOD of Virginia. I pronounce it *embassy*.

Mr. MANN. I thought the gentleman was authority on that subject. I notice both of our reading clerks pronounce it *embassy*, and I did not know. They usually know, and I would like to get the information.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### STEAM LAUNCH FOR LEGATION AT CONSTANTINOPLE.

Hiring of steam launch for use of embassy at Constantinople, \$1,800.

Mr. FLOOD of Virginia. Mr. Chairman, I want to offer an amendment, on line 16, page 8, to strike out the word "legation" and insert in lieu thereof the word "embassy."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 8, line 16, by striking out the word "legation" and inserting "embassy."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. SIMS. Mr. Speaker, I want to ask unanimous consent to extend my remarks in the Record.

The CHAIRMAN. The gentleman from Tennessee [Mr. SIMS] asks unanimous consent to extend his remarks in the Record.

Mr. MANN. Mr. Chairman, reserving the right to object, I apprehend the gentleman wants to insert more newspaper articles about the Panama Canal, which I will not object to if he does not want to insert them in the middle of the consideration of this bill.

Mr. SIMS. The gentleman is right in his surmise. I will not put them in the middle of the bill.

Mr. MADDEN. Has this anything to do with the gentleman's controversy with Mr. Glover? [Laughter.]

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee to extend his remarks in the Record?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### ANNUAL EXPENSES OF CAPE SPARTEL LIGHT, COAST OF MOROCCO.

Annual proportion of the expenses of Cape Spartel and Tangier Light on the coast of Morocco, including loss by exchange, \$325.

Mr. ESCH. Mr. Chairman, I move to strike out the last word, for the purpose of making an inquiry of the chairman of the committee.

What is the reason why our Government should participate in the maintenance of these lights? Is it because of the poverty of Morocco or its want of sea commerce or what?

Mr. FLOOD of Virginia. Our Government entered into a treaty with 13 other nations to maintain this lighthouse. The reason was that our Government used the entrance to the Straits of Gibraltar, as did the other Governments also. The treaty fixed the proportionate cost each Government should pay for keeping up the lighthouse. This treaty was entered into in 1865, and we are still appropriating under the provisions of that treaty.

Mr. ESCH. In view of the fact that the political status of Morocco has changed since this treaty was made, would not that change the situation?

Mr. FLOOD of Virginia. The treaty has not yet been denounced by this Government. It is an existing treaty, and the obligation would still rest upon this Government.

Mr. ESCH. It would for the fiscal year for which this appropriation is made?

Mr. FLOOD of Virginia. It would as long as the treaty lasts.

Mr. GARNER. Mr. Chairman, does the gentleman from Virginia yield?

The CHAIRMAN. Does the gentleman yield?

Mr. FLOOD of Virginia. Yes.

Mr. GARNER. I want to say to the gentleman and other members of the committee, as to some of these numerous appropriations that are made in accordance with the stipulations of treaties, that the appropriations will continue as long as the treaties continue and as long as Congress feels itself bound to appropriate the money to keep up the obligations of those treaties.

There is no way by which the House can protect itself against these obligations made by the Senate through a treaty except to refuse to make an appropriation. Your Committee on Foreign Affairs so far has not come to the conclusion that it should adopt the policy of repudiating or denouncing a treaty by refusing to make an appropriation. It has, however, consolidated a number of these treaties under one head and made as low an appropriation as it thought the circumstances would justify.

The CHAIRMAN. The time of the gentleman has expired. The pro forma amendment will be considered withdrawn. The Clerk will read.

The Clerk read as follows:

Emergencies arising in the Diplomatic and Consular Service.

Mr. HOBSON. Mr. Chairman, I move to strike out the last word of the previous paragraph, for the purpose of asking the chairman of the committee a question, if he has no objection.

Mr. FLOOD of Virginia. Certainly.

Mr. HOBSON. Would the gentleman explain why we had to pay a ground rent for the embassy at Tokyo?

Mr. FLOOD of Virginia. A ground rent?

Mr. HOBSON. Yes.

Mr. FLOOD of Virginia. In 1896 the United States purchased embassy buildings in Tokyo subject to this ground rent, to be paid to the Japanese Government for the ground on which the building stands.

Mr. HOBSON. Does the same proposition hold with respect to other foreign embassies in Tokyo? I mean is the attitude of the Japanese Government the same as to the ownership of land, and whether all embassies are held practically under lease and not under title?

Mr. FLOOD of Virginia. Yes. This is a valuable piece of land. Two hundred and fifty dollars is a mere nominal rent.

Mr. HOBSON. Can the gentleman tell me, for my information, whether property owned by Americans or other foreigners there must be held in the same way, as, for instance, in the British Crown colonies, where it is held on a 99-year lease?

Mr. FLOOD of Virginia. I can not answer that question.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

BOUNDARY LINE, ALASKA AND CANADA, AND THE UNITED STATES AND CANADA.

To enable the Secretary of State to mark the boundary and make the surveys incidental thereto between the Territory of Alaska and the Dominion of Canada, in conformity with the award of the Alaskan Boundary Tribunal and existing treaties, including employment at the seat of government of such surveyors, computers, draftsmen, and clerks as are necessary to reduce field notes; and for the more effective demarcation and mapping, pursuant to the treaty of April 11, 1908, between the United States and Great Britain, of the land and water boundary line between the United States and the Dominion of Canada, as established under existing treaties, to be expended under the direction of the Secretary of State, including employment at the seat of government of such surveyors, computers, draftsmen, and clerks as are necessary to reduce field notes, \$100,000, together with the unexpended balance of previous appropriations for these objects.

Mr. HAMLIN. I move to strike out the last word.

Mr. FOWLER. I reserve a point of order against that paragraph.

Mr. HAMLIN. I desire some information from the chairman of the Committee on Foreign Affairs. There seems to be an increase of \$25,000 in this item.

Mr. FLOOD of Virginia. There is an apparent increase. The appropriation bill of last year carried \$75,000 and the unexpended balance, which was \$109,000, making a total of \$184,000. This bill carries \$100,000 and the unexpended balance, which is \$32,000; so we really appropriate \$132,000, as against \$184,000 appropriated in the last bill.

Mr. HAMLIN. How do you know what the unexpended balance will be at the end of this current year?

Mr. FLOOD of Virginia. That was the estimate placed upon it by Dr. Tittmann, who is in charge of this work. He appeared before the committee and stated that the unexpended balance would be \$32,000.

Mr. HAMLIN. You say there was a surplus in the last fiscal year of \$109,000?

Mr. FLOOD of Virginia. Yes.

Mr. HAMLIN. And it is estimated that there will be a surplus of \$32,000 this year. Why keep a surplus on hand all the time?

Mr. FLOOD of Virginia. They do not expect to have a surplus during the next fiscal year. They estimate that they will use up the whole \$132,000. In fact, they asked for \$137,000. They are pushing the work very rapidly on the boundary line between Canada and Alaska and on the boundary line between Canada and the United States. Dr. Tittmann appeared before the committee and made a very full and complete statement as to the work they expect to do and the amount of money it will take, and the committee were thoroughly satisfied that he needed this amount of money, and that he was pushing this work as rapidly as possible and was doing the work well, and that it was a project that was being well handled and one that in a few years we will probably be rid of.

Mr. HAMLIN. That may all be true, but I do not like the idea of appropriating blindly; in other words, like buying a pig in a poke. Last year the same assurance was given us that it was necessary to appropriate \$75,000, together with the unexpended balance of the previous year. Now, it turns out that he admits that he will not use all the money, that there will be an unexpended balance of \$32,000 remaining, and yet he estimates that he now needs \$100,000 more. We are continually complaining about the appropriations running so high, and I think the complaint is just, and that it is inexcusable. I am not criticizing this committee now. I am speaking generally, that we ought to be more careful in these appropriation bills. Hold them down as low as possible.

Mr. FLOOD of Virginia. I will say to the gentleman that if the money is not used it reverts into the Treasury unless it is reappropriated as an unexpended balance.

Mr. HAMLIN. That is where it ought to go, into the Treasury.

Mr. FLOOD of Virginia. The only thing that could be gained by acting on the gentleman's suggestion would be to keep down the apparent size of the appropriation, and we might run the risk of stopping this very valuable work before the end of the fiscal year or require a deficiency appropriation.

Mr. HAMLIN. No; I think my friend from Virginia overlooks a very important part of it all in the handling of the public money. If these departments understand that they have ample funds and perhaps something to spare, they are going to be more extravagant and liberal in their expenditures than if they understand that they have only a limited and definite sum which they can expend. It is possible they will think that if they can make a proper showing Congress will furnish the money later on in a deficiency bill, but if we give it to them in advance and indefinite in amount there is no limit to the extravagance. I think it is a very bad practice to appropriate in this way, and I protest against it.

Mr. FLOOD of Virginia. I will say to the gentleman that the committee had in mind the very suggestion which he has made here. There is another boundary-line commission, between this country and Mexico, which asked for \$50,000, but the committee, after investigation, did not think that commission would expend that amount and provided only \$25,000.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. HAMLIN] has expired.

Mr. HAMLIN. I ask for two minutes more.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent for two minutes more. Is there objection?

There was no objection.

Mr. FLOOD of Virginia. We did not think the Mexican Boundary Commission needed that amount of money, and, after going into it carefully, we declined to appropriate any more than \$25,000, the amount appropriated last year; but after a very careful examination of Dr. Tittmann we were satisfied that the Alaskan and Canadian Boundary Commissions would need this money and would expend it during the next year.

Mr. HAMLIN. But I notice that in making the appropriation for the Mexican Boundary Line Commission you did not appropriate any balance that might be left unexpended.

Mr. FLOOD of Virginia. No.

Mr. HAMLIN. Why not in that case as well as in the Canadian boundary-line matter?

Mr. FLOOD of Virginia. Because we are appropriating a sufficient amount for that commission in the \$25,000.

Mr. HAMLIN. I think that is true. If this money for the Canadian Boundary Commission had not been reappropriated here, it would have reverted to the Treasury.

Mr. FLOOD of Virginia. And we would have had to appropriate \$132,000 instead of \$100,000.



Mr. GARNER. Mr. Chairman, may I say to the gentleman from Missouri that this covers two commissions? Your committee undertook to consolidate these commissions, and a year ago we put two of these commissions together. Dr. Tittmann, in a statement before the committee, said that \$5,000 would finish up the work of the boundary between Canada and this country, but it would take about \$135,000 to continue this work for the next fiscal year in Alaska. He is, in my judgment, one of the most efficient men I ever came in contact with in the employ of the Government. [Applause.]

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. GARNER. Mr. Chairman, I ask unanimous consent for two minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent for two minutes. Is there objection?

There was no objection.

Mr. GARNER. The committee went into this matter as closely as it was possible to do and, as the chairman has remarked, if we had not reappropriated the amount at the end of the fiscal year we would have carried an item for \$135,000 instead of \$100,000. It would have made the apparent total a little larger.

Dr. Tittmann advises the committee that he hopes to be able to close up and complete the boundary-line work between Alaska and the United States at an early date. With reference to Mexico, you will be carrying this appropriation for this boundary commission between Mexico and the United States when we have all passed away. It will continue as long as the treaties that we now have are kept in existence.

Mr. FOWLER. Mr. Chairman, I reserved a point of order on the paragraph.

Mr. GARNER. On what ground?

Mr. FOWLER. I reserved a point of order to that part of the paragraph beginning, in line 8, "together with the unexpended balance of previous appropriations for these objects."

Mr. HARRISON of Mississippi. How much does that amount to?

Mr. FLOOD of Virginia. Thirty-two thousand dollars.

Mr. FOWLER. I suppose the Chair, with his long experience, is perfectly familiar with the rules governing this appropriation. Being a new Member, I do not desire to discuss the point of order more than to say that if it is permitted to make appropriations indiscriminately without denominating the amount it certainly will lead to that degree of uncertainty which will give not only to this House but to the people at large a feeling that we at least are indiscreet in making our appropriations.

Mr. Chairman, I do not believe that the Appropriations Committee ought to be permitted to take that which was formerly appropriated for a fiscal year, and then snatch the unused balance before it gets into the Treasury and dump it into the coffers for the purpose of making the sum total, the amount of which is not revealed in the bill to the House. Unused balance automatically reverts to the Treasury. Such practice ought not to be permitted, in my opinion. For this reason I have sought the opinion of the Chair on this question.

The CHAIRMAN. The treaty authorizes the appropriation for the purpose named in the item, and if Congress can appropriate directly it can reappropriate an unexpended balance. The point of order is overruled.

The Clerk read as follows:

INTERNATIONAL BUREAU AT BRUSSELS FOR REPRESSION OF THE AFRICAN SLAVE TRADE.

To meet the share of the United States in the expenses of the special bureau created by article 82 of the general act concluded at Brussels July 2, 1890, for the repression of the African slave trade and the restriction of the importation into and sale in a certain defined zone of the African Continent of firearms, ammunition, and spirituous liquors, for the year 1914, \$125.

Mr. GARNER. Mr. Chairman, I move to strike out the last word, to again call to the attention of the House that the number of appropriations made in this bill will continue to be made as long as it is the policy of Congress to continue in existence, by making appropriations, treaties made by the Senate. Here is an appropriation with reference to the African slave trade, and the immense sum of \$125 is carried to suppress that heinous crime. I simply avail myself of this opportunity to show how ridiculous the Congress becomes by virtue of some treaty made 40 or 50 years ago in continuing to make appropriations to carry into effect some treaty that has by lapse of time or some other way abrogated itself.

Mr. HAMILTON of Michigan. Mr. Chairman, I was interested in the statement made by the gentleman from Texas a little while ago to the effect that this appropriation for the boundary-line commission between the United States and Mex-

ico would have to go on indefinitely. I was wondering why that would have to be so.

Mr. GARNER. I will say to the gentleman from Michigan that when I first had the honor to come to this House I came with the intention of striking that one item of expense out of the appropriations, but when Secretary of State Root came before the committee and stated that in his judgment this expense of adjusting the differences between the citizens of Texas and Mexico could be done at less expense by this commission than by the department, I had to yield in favor of continuing the appropriation.

Mr. HAMILTON of Michigan. I did not know but that it was on account of the shifting habits of the river.

Mr. GARNER. Well, that has nearly all to do with it.

This commission does do a considerable service. They thought this year they needed \$50,000, but the committee came to the conclusion they could get along with \$25,000. If the United States does not make a treaty with Mexico settling the so-called Chamozel dispute, there will be no question but that \$25,000 will be sufficient. If they should make that treaty and they could survey the river from El Paso to Laredo, they doubtless could utilize the \$50,000.

Mr. BORLAND. Mr. Chairman, the gentleman from Texas calls attention to the small amount of this appropriation as illustrating practically the point that there is no necessity for continuing the appropriation at all. I will ask the gentleman whether this is not in pursuance of an estimate by the Secretary of State?

Mr. FLOOD of Virginia. No; it is in pursuance of an agreement for a division of the cost of keeping up this bureau for the suppression of the African slave trade and the sale of liquor in certain parts of Africa. Eighteen nations are parties to this treaty. It is not an old treaty. It was made in 1890 and renewed in 1906.

Mr. BORLAND. It is our estimated proportion?

Mr. FLOOD of Virginia. Yes.

Mr. BORLAND. Estimated and reported by the Secretary of State?

Mr. FLOOD of Virginia. Reported by this bureau to the Secretary of State and through him to us. Our payments are made to the Belgian foreign office.

Mr. BORLAND. So that in this particular case we have no way of getting rid of this contribution unless we denounce the treaty.

Mr. FLOOD of Virginia. No.

Mr. GARNER. Mr. Chairman, I had no idea of criticizing this particular appropriation. I do not know that I would strike it out if I had the opportunity. I simply utilized this opportunity to call the attention of the House to the great number of appropriations in this bill in response to provisions of treaties that are from 25 to 100 years old, and which will continue to be appropriated for as long as time exists unless the House asserts itself and determines whether it is advisable to denounce that treaty by refusing to appropriate.

The Clerk read as follows:

The Secretary of the Treasury be, and he is hereby, authorized annually to pay the pro rata share of the United States in the administration expenses of the International Prison Commission and the necessary expenses of a commissioner to represent the United States on said commission at its annual meetings, together with necessary clerical and other expenses, out of any money which shall be appropriated for such purposes from time to time by Congress.

Mr. MANN. Mr. Chairman, I move to strike out the last word. These last two items concerning the International Prison Congress I believe were inserted in the bill last year, and I think are permanent law.

Mr. FLOOD of Virginia. Yes.

Mr. MANN. It is permanent law?

Mr. FLOOD of Virginia. Not the appropriation.

Mr. MANN. Oh, no; but the two items on page 13. If there is any question, I do not wish to strike them out.

Mr. FLOOD of Virginia. They were put there to dispose of the question of whether this appropriation was authorized by law.

Mr. MANN. That was put there for that purpose, and that is in the current law.

Mr. FLOOD of Virginia. Yes.

Mr. MANN. And yet if we carry it every year in an appropriation bill it is either considered surplusage or else to be an admission upon our part that we did not make it permanent law, when we thought we did last year when it was put in.

Mr. FOSTER. Does not the gentleman think that applies only for the year?

Mr. FLOOD of Virginia. Oh, no.

Mr. MANN. The second paragraph is:

The Secretary of the Treasury be, and he is hereby, authorized annually to pay the pro rata share of the United States, etc.

I think the ruling is that where the language shows clearly it does not apply to the fiscal year for which the appropriation is made, it is permanent law. If there is any question about it, why not put in the word "hereafter." There is no use of carrying this provision in the bill every year.

Mr. FOSTER. The Secretary of the Treasury has no right to pay it without an appropriation.

Mr. MANN. Oh, no. This does not authorize him to pay it without an appropriation. This is an authorization to pay this annually out of the money that shall be appropriated for such purpose from time to time by Congress, and it was inserted in the bill last year for the purpose of giving the authorization and making it permanent law.

Mr. GARNER. In other words, the provision from lines 1 to 11, inclusive, on page 13, is mere surplusage, and this appropriation on lines 21, 22, 23, and 24, on page 12, carries the appropriation.

Mr. MANN. I really think these two items do not belong here. I think that is permanent law.

Mr. FLOOD of Virginia. I think the gentleman is correct.

Mr. MANN. The first item is:

The United States shall continue as an adhering member—

And so forth.

I do not know whether the comptroller would rule that applied only to the current fiscal year, but the intention was to make it yearly.

Mr. FLOOD of Virginia. The intention was to make it permanent law.

Mr. MANN. Let us either strike it out or insert the word "hereafter" and hereafter leave it out.

Mr. FOSTER. No; let us wait and see about this thing.

Mr. HAMILTON of Michigan. Why not pass this item for the present?

The Clerk read as follows:

#### PAN AMERICAN UNION.

Pan American Union, \$75,000: *Provided*, That any moneys received from the other American Republics for the support of the union shall be paid into the Treasury as a credit, in addition to the appropriation, and may be drawn therefrom upon requisitions of the Secretary of State for the purpose of meeting the expenses of the union: *And provided further*, That the Public Printer be, and he is hereby, authorized to print an edition of the Monthly Bulletin, not to exceed 5,000 copies per month, for distribution by the union during the fiscal year ending June 30, 1914.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word.

Mr. BORLAND. Mr. Chairman, I reserve a point of order on the last proviso.

Mr. FOSTER. Mr. Chairman, I desire to ask the chairman of the committee if he can give the House any information with reference to what has become of this bulletin that is spoken of here? I know that we used to get this bulletin regularly, and a great many of us who had a little time to look it over enjoyed reading it, but for a long time I have not seen a copy of it—that is, at least it has not come to my office.

Mr. FLOOD of Virginia. I will say to the gentleman I thought it was going regularly to Members of Congress, and that they could get additional copies of it. This item that the gentleman from Missouri reserved the point of order on was put in the bill last year because so many members of the committee and of Congress thought that this was such a valuable bulletin that they desired to have additional copies.

Mr. FOSTER. I want to say, Mr. Chairman, in my judgment, there is no bulletin that is of more information, especially as to Latin America, than the bulletin issued by this bureau.

Mr. MANN. Will my colleague yield? The number provided for in the law is 5,000 copies. My understanding is that there is such a demand for the bulletins from those who make actual use of it in trade, and so forth, that they have been compelled to cut off every copy that they could from those who did not use it, in order to furnish it to those who insisted upon having it within the limit of 5,000 copies. I guess if my colleague will tell the chief of the bureau that he wants it he will get it.

Mr. FLOOD of Virginia. The director general.

Mr. MANN. If they send a copy to every Member of the House and Senate, there are 500 copies gone.

Mr. FOSTER. My colleague may be right, as far as that is concerned, that there are people to whom it is distributed who would make better use of it than many Members of Congress would; but this is a bulletin, it seems to me, that is of a great deal of interest to the people of the United States. If we are to extend our trade into South American countries, it seems to me it is important to secure the information that is to be obtained from a bulletin of this kind, and I should like to see an additional number of copies of this bulletin printed if necessary for the people of this country.

Mr. MANN. There ought to be more copies.

Mr. FLOOD of Virginia. I suggest to the gentleman to offer an amendment making it 6,000 copies, and get the gentleman from Missouri to withdraw his point of order.

Mr. FOSTER. I will wait and see what the gentleman from Missouri does.

Mr. BORLAND. Mr. Chairman, I reserved the point of order to the last proviso in the paragraph to ascertain whether there was any existing law authorizing 5,000 copies of the bulletin to be printed by the Public Printer for use and how that distribution was controlled. I agree with the gentleman from Illinois [Mr. MANN] that it is a very useful bulletin, and while I would like to have them myself for current use, yet it is so greatly desired among the business men of the district I represent that I am perfectly willing to yield my individual copy, but I have never been able, so far as I can remember now, to get a copy for any business man. My impression is that they sell this bulletin at a subscription price.

Mr. FLOOD of Virginia. Oh, I think not.

Mr. BORLAND. And they refer inquirers to the subscription price. That is my impression about it.

Mr. FLOOD of Virginia. I think the gentleman is mistaken about that. This matter was brought up before the Committee on Foreign Affairs a year ago, when these 5,000 copies were authorized, and the understanding was it was to be for free distribution, and we authorized the 5,000 on account of the great demand for it, and I believe if the gentleman would apply to the Director General of the Pan American Union he could get such copies as are necessary in his district. But from what the gentleman says and from what the gentleman from Illinois says I suggest an amendment increasing the number of copies.

Mr. BORLAND. Well, I presume the gentleman realizes that an amendment to increase the number of copies would be subject to a point of order on this appropriation?

Mr. FLOOD of Virginia. Yes; and so is the paragraph itself subject to the point of order.

Mr. HARRISON of Mississippi. Will the gentleman yield one moment in that connection?

Mr. BORLAND. Yes.

Mr. HARRISON of Mississippi. My recollection is that when the matter came up in the committee the gentleman from Massachusetts [Mr. CURLEY] was directed by the committee to draft a bill for a number of these bulletins to be gotten out. I do not know whether it was done or not.

Mr. CLINE. Will the gentleman yield?

Mr. BORLAND. For a question; yes.

Mr. CLINE. I want to make an explanatory statement in reference to the demand for these bulletins. I represent a large manufacturing district, and as some of our people are doing business in South American Republics, I have an increasing demand for them. Of course, the number of 5,000 does not go far in distribution in all of the States of the Union, and I have frequently referred my application to the Director General of the Pan American Union, and we have been supplied. I recognize, as the chairman says, there ought to be a larger publication than we now have.

Mr. CURLEY. The resolution was introduced some time ago and was referred to the Committee on Printing, which committee is considering it now, as to the distribution of 5,000 copies among the Members.

Mr. BORLAND. To be put to their credit as a document?

Mr. CURLEY. In addition to those already printed.

Mr. BORLAND. Are they put to the Members' credit automatically, or do they have to ask for them?

Mr. CURLEY. To the Members' credit automatically.

Mr. BORLAND. The printing of this bulletin for the business men and prospective exporters in the United States is about the most important benefit we get from the maintenance of this Pan American Union. I realize also that it has some diplomatic advantage in cultivating better relations, and so on. But from a practical standpoint—that is, the sum and substance of what we get at this date—I think the committee can form some plan to increase the number of bulletins to be printed. I hope the committee will bring in a report increasing the number to be issued next year.

Mr. GARRETT. Will the gentleman yield?

Mr. BORLAND. Yes.

Mr. GARRETT. Do I understand the proposition of the gentleman from Massachusetts [Mr. CURLEY], that is pending before the Committee on Printing, is for the bulletins to be published as a document for distribution among the Members?

Mr. CURLEY. Yes; some 5,000 additional copies each month.

Mr. GARRETT. Of course, the gentleman has given that thought, and he thinks it is desirable.



Mr. CURLEY. I think the resolution was passed because of the number of inquiries that have been received by myself and other members of the committee from manufacturers and others.

Mr. GARRETT. It occurs to me, I will say to the gentleman from Massachusetts, perhaps it might be wiser if the number were increased and distributed as now distributed, rather than distributed through the document room as a public document, because I have no doubt, for instance, that gentlemen representing great business cities in part have more requests, for instance, than I do, who represent an agricultural community.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. BORLAND] has expired.

Mr. BORLAND. We were discussing the point of order, if the Chair please.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the time of the gentleman from Missouri [Mr. BORLAND] be extended for five minutes. Is there objection?

There was no objection.

Mr. GARRETT. I can dispose to advantage of all I might get, but at the same time it is doubtful whether it would not be better for them to be distributed as they are now rather than so many copies to be distributed as public documents. I suggest that to the gentleman for his consideration.

Mr. BORLAND. That is a matter for the consideration of the committee and the House. There is a good deal of force in what the gentleman from Tennessee [Mr. GARRETT] suggests. The gentleman from Massachusetts [Mr. CURLEY] and myself come from busy commercial centers, where there is an unusual demand for these documents, and I would suggest the number be doubled in view of the increasing demand that will come in the immediate future for information about these South American countries—but not in this bill.

Mr. GARNER. May I ask the gentleman from Missouri [Mr. BORLAND] if he has any idea of what it costs to publish these documents?

Mr. BORLAND. The committee has full power to conduct hearings on that subject and give us the result. I hope it will do so.

Mr. MADDEN. It is intended to make this a newspaper publication, so that it may have a large issue printed of it, or not?

Mr. BORLAND. It is a monthly bulletin.

Mr. MADDEN. On what does it treat?

Mr. CURLEY. It was suggested by the gentleman from Ohio [Mr. SHARP] that because of the manufacture of agricultural implements in his section, a good field for business might be developed in South America. He conferred with Mr. Barrett, and in one year their sales of agricultural implements amounted to more than \$1,000,000. That trade they hold at the present time.

It was stated further that a shoe factory, located in Boston, which manufactures the largest quantity of women's shoes of any factory in the United States, decided to enter into competition with the Swiss factories and the French factories which sell largely in Argentina, and their attention was directed to the possibilities of trade in South America largely through the bulletins, and they have extended their business there. I do not know how many articles of manufacture this would apply to, but certainly it would be many.

Mr. MANN. Mr. Chairman, has the point of order been withdrawn?

Mr. BORLAND. I withdraw the point of order.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. I understood the gentleman from Massachusetts [Mr. CURLEY] to say that there was under consideration a plan to have these bulletins issued through the document room or through the folding room.

Mr. CURLEY. I say that a resolution was introduced and referred to the Committee on Printing, requesting that they have 5,000 copies of this document printed each month for distribution by the Members of the House of Representatives. That is outside of this measure, however, and is a separate proposition.

Mr. MANN. I think it is safe to say that the Committee on Printing would not favor reporting such a resolution, and if it did, the House would not pass it.

A document of that kind is of no value to Members of Congress when printed monthly. There is not a Member of Con-

gress here that will get his share of 5,000 copies of a monthly bulletin and send one copy to the same individual each month. It becomes a perfect nuisance to undertake it. We used to get five copies of all the geological bulletins. I do not know what other Members of Congress used to do, but for a while I sent mine to a professor of geology in the University of Chicago, and then, as his patience ran out, I sent them to the Geological Survey here, and their patience running out, the bulletins accumulated in the folding room, until finally we stopped the practice. If you want to increase the number of bulletins, the number ought to be increased slightly from one year to another as they are absorbed.

Mr. HARRISON of Mississippi. What number would the gentleman suggest?

Mr. MANN. I would say 6,000, an increase of 1,000. That additional number might be absorbed in a year or two. I do not know whether they would be or not.

Now, the gentleman from Massachusetts [Mr. CURLEY] is somewhat in error in thinking that his shoe manufacturers got their information out of these bulletins. The information they get comes from the Daily Consular Reports.

Mr. GARNER. Would it not be better to increase this, if it is necessary to make up 10,000 copies, by an increase of 1,000 copies a year? In that way they will not be distributed recklessly.

Mr. MANN. An increase of a thousand is enough, I think.

Mr. BORLAND. No increase is proposed at this time.

Mr. MANN. Yes; there is.

Mr. HARRISON of Mississippi. Mr. Chairman, I move to strike out "five thousand" and insert "six thousand" on line 1, page 14. In place of "five" make it "six."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Mississippi [Mr. HARRISON].

The Clerk read as follows:

Amend, page 14, line 1, by striking out the word "five" at the end of the line and inserting in lieu thereof the word "six."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. GARRETT. Mr. Chairman, I wish to ask the gentleman from Texas [Mr. GARNER] a question about that matter. Is there anything before the committee indicating that this bureau desires this increase at this time? I do not care to take up time about the matter.

Mr. GARNER. The bureau will do anything along this line; anything that Congress thinks proper. They do not need it, but the contention is made by the gentleman from Illinois [Mr. FOSTER], by the gentleman from Missouri [Mr. BORLAND], by the gentleman from Massachusetts [Mr. CURLEY], and various others that their constituents are interested in these bulletins, and that they can not get them either for their own use or for the use of their constituents, and under those circumstances they thought the number might be increased by a thousand copies.

Mr. HARRISON of Mississippi. Mr. Barrett was accorded a hearing before our committee on that subject, or possibly the best way to put it would be that Mr. Barrett was before the committee, and many questions were asked of him concerning this matter, and the gentleman from Massachusetts [Mr. CURLEY], at the instance of our committee, went to the Committee on Printing and asked to have the number increased.

Mr. GARRETT. It is the judgment of the committee that the number should be increased?

Mr. HARRISON of Mississippi. Yes; I think so.

Mr. MANN. It should be remembered that this printing will not be done for nothing, and they will not order any more than they need.

Mr. GARNER. This printing does not come out of this item.

Mr. MANN. Against whom will it be charged up?

Mr. GARNER. It will be charged up against the fund.

Mr. MANN. What fund will it be charged up to?

Mr. GARNER. I suppose the Public Printer is authorized to publish a certain number of documents.

Mr. MANN. He has not any fund to print it from, unless it is authorized. When we order things printed, the cost is charged up to the congressional printing fund.

Mr. GARNER. I think this would be.

Mr. MANN. Oh, no; it would not be.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Mississippi [Mr. HARRISON].

The amendment was agreed to.

The Clerk read as follows:

For the expenses of the arbitration of outstanding pecuniary claims between the United States and Great Britain, in accordance with the special agreement concluded for that purpose August 18, 1910, and the

schedule of claims thereunder, including office rent in the District of Columbia, and the compensation of arbitrator, umpire, agent, counsel, clerical, and other assistants, to be expended under the direction of the Secretary of State, and to be immediately available, \$50,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word.

In view of the reported shooting of Americans in the streets of Mexico City, and with the earnest hope that the United States may not be obliged to intervene with armed forces, I desire to show through one case that has been brought to my attention the difficulties which have confronted the State Department in its efforts to adjust differences that recently have arisen in consequence of the interest of citizens of the United States in Mexico. On the night of October 28, 1912, as I am informed, an attack was made upon the home of Richard N. Stadden, United States vice and deputy consul at Manzanillo and a representative at that place of the Pacific Timber Co. Without discussing the propriety of Mr. Stadden's dual position, the facts as to the assault thus far remain substantially undisputed. During his absence Mr. Stadden's residence was attacked by Dr. Aristo Nunez, a Mexican citizen, who broke down the door and with a loaded rifle threatened the family. He was overpowered by servants and removed to the local jail, from which he was promptly liberated by the officials. The governor of the State of Colima was duly advised of the facts, but up to the last report through the American ambassador to the State Department no steps have been taken to apprehend or to punish the offender. There has been much correspondence upon the subject, and under date of December 5 the State Department advises that it had instructed the embassy to request certain reports of the foreign office with regard to the—

conduct of Gov. Allamano as reported by Mr. Stadden, and say that it appears to the department that there is a disposition on the part of the governor to shield Nunez from punishment for the outrage committed upon the vice consul.

The State Department's letter to the ambassador to Mexico clearly indicated its purpose to see that fair treatment was accorded our representatives at Manzanillo. But more than two months have elapsed without further information as to the intent of the Mexican Government, and the belief of the American friends of the vice consul at Manzanillo is that the sympathizers of the assailant have sufficient influence to prevent action by the local authorities. In a letter from the State Department, dated February 5, I am advised that the embassy at Mexico "has now been called upon for a report." In view of the outbreak of hostilities, however, it may not now be possible to speedily obtain the satisfaction which is due the United States in this matter, although it is not wholly creditable that an attack upon one of our own representatives to a country presumed to be friendly should stand unredressed and without satisfactory explanation for more than three months. It would indeed be deplorable if in order to maintain the honor and dignity of the United States we should be obliged to send troops into Mexico, but if even our well-intentioned diplomatic negotiations are to be trifled with, then, of course, the matter assumes a different aspect. Citizens of the United States are entitled to protection while traveling in foreign countries, and it would be making a laughingstock of our Government if we failed to afford the representatives we send abroad the assurance of our national support. [Applause.]

The Clerk read as follows:

#### INTERNATIONAL BUREAU OF THE PERMANENT COURT OF ARBITRATION.

To meet the share of the United States in the expenses for the year 1912 of the International Bureau of the Permanent Court of Arbitration, created under article 22 of the convention concluded at The Hague, July 29, 1899, for the pacific settlement of international disputes, \$1,250.

Mr. FOSTER. I reserve a point of order against that paragraph. I should like to inquire how long this appropriation is going to continue.

Mr. GARNER. As long as they can get Congress to make it.

Mr. FLOOD of Virginia. I do not know that I can give the gentleman any definite information as to how long it is going to continue. This tribunal has been established under a treaty entered into in 1910, and there will be presented before the tribunal when it first assembles 202 American and 92 British claims. They are making up schedules of other claims which will be presented later. The treaty was negotiated by a very distinguished gentleman representing this Government and another distinguished gentleman representing the British Government, and it is necessary to have some tribunal to settle these old outstanding pecuniary claims, many of them quite old, between the citizens of this country and England and the citizens of England and this country. They may go ahead and dispose of them very rapidly, or they make take a long time. Any answer to the question would be a mere guess.

Mr. FOSTER. I see the difficulty under which the gentleman is laboring. It seems to me that in this bill we carry a great many of these small appropriations, as well as some pretty large ones, and I suppose it is necessary to make them; but I do make the point of order against the language—

And to be immediately available.

Mr. MANN. I hope my colleague will not do that.

Mr. FOSTER. If there is some good reason, I will withdraw the point of order.

Mr. MANN. This commission has been authorized by treaty for some years, and it is just getting ready to go to work and dispose of a lot of these claims. We have a number of claim bills on the calendar of the House, and gentlemen have made the terrible threat that if we did not pay the claims in full they would go before this commission. I want to see this commission get to work, and see some of these gentlemen go before the commission, and see whether they can substantiate their claims. There are a lot of these claims pending, and, as I understand it, the commission are now ready to commence operations.

Mr. FOSTER. I am not making a point of order against anything except the words—

And to be immediately available.

They had this same appropriation last year.

Mr. FLOOD of Virginia. They had the same appropriation last year.

Mr. MANN. They had the same appropriation, but they have not had a real meeting yet.

Mr. GARNER. No; they have just been using the money, that is all.

Mr. FOSTER. If that is true, then I think there is more reason for my point of order.

Mr. FLOOD of Virginia. Oh, no; the gentleman is mistaken. This appropriation provides for a tribunal in the nature of a court.

Mr. MANN. Yes.

Mr. FLOOD of Virginia. And then it provides for the organization that prepares every case to be presented to this court, and this organization has been at work getting ready the 202 American cases that are already scheduled and preparing our defense in 92 British cases that have been scheduled. The arbitrators or court have not met, but our agent and his assistants have been at work ever since the appropriation was first made.

Mr. MANN. I am not criticizing the expenditure that has been made. It is intended to assemble during this fiscal year, as I understand it.

Mr. FLOOD of Virginia. Yes.

Mr. MANN. That is the reason for making the appropriation immediately available.

Mr. FLOOD of Virginia. The additional appropriation is to be for the expenses of the court, and that is the reason we want to make it immediately available.

Mr. HARRISON of Mississippi. I will read the statement on this point of Mr. Lansing, who appeared before the committee:

The CHAIRMAN. You ask for an emergency appropriation of \$8,000 to supplement the present appropriation of \$50,000?

Mr. LANSING. Yes.

The CHAIRMAN. Why do you want the appropriation we make immediately available?

Mr. LANSING. I do not think we do, sir. I did not know that was in the bill. I did not look the bill over, but I do not see why that should be immediately available at all.

That was the statement of Mr. Lansing.

Mr. MANN. Mr. Lansing was not informed. As a matter of fact, this tribunal are to meet this spring for the first time, as I understand, to decide a lot of these cases upon which they have been working, and they need the money when the tribunal meet. You can be sure their side will have sufficient funds to properly have their cases presented.

Mr. FOSTER. The gentleman from Illinois thinks if they do not have this appropriation immediately available they will have to have a deficiency appropriation?

Mr. MANN. They would clearly have a deficiency appropriation.

Mr. FOSTER. If they are going to do that, I think we had better leave the language as it is. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

#### INTERNATIONAL CONFERENCE ON MARITIME LAW.

For the expenses of participation by the United States by officially appointed delegates in the International Conference on Maritime Law to meet at Brussels in 1913, \$5,000, or so much thereof as may be necessary, to be immediately available.

Mr. FOSTER. Mr. Chairman, I reserve a point of order, and want to ask why it is necessary to make this immediately available?



Mr. FLOOD of Virginia. I do not think it is necessary.

Mr. FOSTER. Then I make a point of order against it. Mr. Chairman, I make the point of order against the words, line 16, page 18, "to be immediately available."

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

WATERWAYS TREATY, UNITED STATES AND GREAT BRITAIN: INTERNATIONAL JOINT COMMISSION, UNITED STATES AND GREAT BRITAIN.

For salaries and expenses, including salaries of commissioners and salaries of clerks and other employees appointed by the commissioners on the part of the United States with the approval solely of the Secretary of State, including rental of offices at Washington, D. C., and necessary travelling and other expenses, and for the one-half of all reasonable and necessary joint expenses of the International Joint Commission incurred under the terms of the treaty between the United States and Great Britain concerning the use of boundary waters between the United States and Canada, and other purposes, signed January 11, 1909; as well as for the payment of necessary expenses incurred and compensation for services rendered under the direction of the Secretary of State in the examination and preparation of cases involving the use, distribution, or diversion of waters and other questions or matters of difference covered by the treaty of January 11, 1909, between the United States and Great Britain, and in representing this Government and the American interests involved in the presentation of such cases before the International Joint Commission constituted under that treaty: *Provided*, That any counsel employed shall be at a fixed compensation, not to exceed \$4,000 per annum, the unexpended balance of the appropriation made for this object for the fiscal year 1913 is hereby reappropriated and made available for this purpose.

Mr. FITZGERALD. Mr. Chairman, I make a point of order that the Committee on Foreign Affairs has no jurisdiction of this item; that it belongs to the sundry civil appropriation bill.

Mr. FLOOD of Virginia. Mr. Chairman, this commission was created in pursuance of the treaty of January 11, 1909, between the United States and Great Britain, to pass upon the application approved by either Government for the use, obstruction, or diversion of boundary waters or one which might affect the levels on the other side of the boundary, the construction of dams, the obstruction of boundary waters, and a few other questions.

This commission was authorized by treaty. Under the rules of the House all matters growing out of treaties go to the Committee on Foreign Affairs. The rule is clear on this point, and there can be no question about the fact that that is the appropriate committee to consider this matter. That committee appropriates for every other commission that is created by a treaty. There can be no difference in principle between this commission and these other commissions. For example, the expenses of the boundary-line commission between this country and Canada are provided for by the Foreign Affairs Committee in this bill, and so are all the others. How can there be any difference in principle as to the committee that has jurisdiction of that question and this commission?

It is true that there have been three appropriations made by the Committee on Appropriations for this commission. The first was on June 25, 1910, for \$75,000, and when only about \$10,000 of it had been used the second one, of \$75,000, was made on March 4, 1911; and on August 24, 1912, the third appropriation, being the unexpended balance of \$103,000, was made. But the fact that the Committee on Appropriations improperly assumed jurisdiction of this matter can not operate to oust the Committee on Foreign Affairs from its proper jurisdiction when the latter committee asserts that jurisdiction.

This year the estimate was sent by the Secretary of State to the Committee on Foreign Affairs, and after that a letter was sent to the Speaker, undertaking to withdraw the estimate from the Committee on Foreign Affairs. But the State Department can not determine the jurisdiction of the committees of this House, and that attempted withdrawal can not deprive us of the rightful jurisdiction. The rules of this House give this committee jurisdiction of questions arising out of the treaties, and this commission owes its existence solely to a treaty. There would not be any authority for this commission except for this treaty. There is no other committee that ought to deal with this commission, because the Committee on Foreign Affairs is the one to determine all other questions arising out of the treaty, including the question of its abrogation.

I believe it is in the interest of good legislation, the orderly conduct of business and economy, for the Committee on Foreign Affairs to handle this matter.

Mr. FITZGERALD. Mr. Chairman, the gentleman from Virginia is mistaken when he says that all matters growing out of treaties are carried in the diplomatic and consular bill. For many years the appropriations for an international waterway have been carried in the sundry civil bill. The appropriations for the International Congress to Promote Letters of Exchange have been carried in the sundry civil bill. Different items have been carried in this bill. This appropriation originated in 1911 and was carried in that year, 1912-13, in the sundry civil appropriation bill.

Mr. KENDALL. If the gentleman from New York will pardon me, did it not originate in the sundry civil bill for the reason that the treaty was ratified after the diplomatic and consular appropriation bill had been passed by the House?

Mr. FITZGERALD. I can not answer that question. It was carried in the sundry civil bill for 1911, the sundry civil bill of 1912, and the sundry civil bill of 1913, and certainly the diplomatic and consular bill had not passed the House prior to the ratification of the treaty under which these appropriations were made.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. I would like, first, to make a statement. Now, the act of June 22, 1906, provided:

Hereafter the estimates for expenses of the Government, except those for sundry civil expenses, shall be prepared and submitted each year according to the order and arrangement of the appropriation acts for the year preceding. And any changes in such order and arrangement, and transfers of salaries from one office or bureau to another office or bureau, or the consolidation of offices or bureaus desired by the head of any executive department, may be submitted by note in the estimates. The committees of Congress in reporting general appropriation bills shall, as far as may be practicable, follow the general order and arrangement of the respective appropriation acts for the year preceding.

For the year preceding, and the year preceding that, this item has been in the sundry civil appropriation bill.

In the Forty-ninth Congress the so-called Blount decision was rendered. A question arose as to the jurisdiction of the respective committees, and Mr. Blount determined that the only way in which it was possible under certain circumstances to determine the jurisdiction of the various committees was to examine the bills as reported and passed at the various sessions, and where under the practice and custom of the House an item originated and belonged in one appropriation bill, it belonged in that bill and could not be placed in another bill. Mr. Blount's decision was followed by a decision by Mr. Payson in the Fifty-first Congress, and by Mr. Hopkins in the Fifty-fifth Congress, and a long line of decisions have been to the effect that items appearing in one appropriation bill can not be transferred to an appropriation bill under the control and jurisdiction of some other committee.

The gentleman states that all matters affecting treaties or growing out of treaties belonged to the Committee on Foreign Affairs. I call the attention of the Chair to volume 4 of Hinds' Precedents, section 4050, to the effect that—

Awards of money to foreign nations in pursuance of treaties for the adjustment of claims or as acts of grace have been reported by the Committee on Appropriations.

Several instances are given in which that happens, and under the rule referring to the items carried in the sundry civil appropriation bill these items are referred to as characteristically of the sundry civil appropriation bill.

One of the objects of the enactment of the statute of 1906 was to prevent and break up a practice that had long been indulged in by the departments. An item would originate and be carried in one if the general supply bills of the House, and for one reason or another a department desiring to transfer that item out of the jurisdiction of one committee to the jurisdiction of another would shift the estimates from one part of the Book of Estimates to another, in the hope that it would in that way be sent to some different committee. I have two decisions here, in volume 4, Hinds' Precedents, sections 4048 and 4184, to the effect that—

The acts of the executive departments in submitting estimates are not of effect in determining questions of jurisdiction.

Mr. Boutell, in passing upon the question of order raised, when he held to that effect, said:

I do not know of any place where the noninterference of the executive with the legislative departments should be more carefully or more jealously guarded than in this House; and whether the Book of Estimates, calling for certain items from certain committees, is based upon an ignorance of the rules of this House or upon a conscious intention to influence the course of appropriations contrary to the rules of the House, the present occupant of the chair believes that it would be the unanimous opinion of this body that such estimates sent in such way should not be construed as affecting in any way the rules of this body.

Moreover, Mr. Chairman, this paragraph contains an item which is not authorized by the treaty or any law, and that is the provision for a counsel at a fixed compensation of \$4,000 a year. The State Department has been endeavoring ever since the appropriation was made to have established in the Department of State, payable out of the appropriation made for this commission, a position to be filled by the appointment of some lawyer, whose services, whatever their character, would not be for the commission, and should in no way be charged to the commission.

The act of 1906, controlling the committees of Congress in reporting the general appropriation bills, is binding in this instance, and as the committee has reported this contrary to



the provision of the statute, it is, for that reason, subject to a point of order.

Mr. GARNER. Mr. Chairman, it will be observed by the Chair that the only reason given by the gentleman from New York [Mr. FITZGERALD] why the Foreign Affairs Committee has no jurisdiction is the fact that his committee previously appropriated for this waterway commission. The Chair will remember also that the gentleman from New York gave as one of his reasons why this rule should be adhered to the fact that the different departments of government might apply to another committee of the House in case one committee refused to give them the amount of money asked for, and therefore it was desirable to continue jurisdiction with the committee that originally had the appropriation. Mr. Chairman, that is just exactly what happened in this instance. The Committee on Foreign Affairs had jurisdiction of this question to the exclusion of any other committee of this House. Those gentlemen interested in this particular appropriation applied to the Committee on Foreign Affairs, and the Committee on Foreign Affairs did not grant their request with reference to the amount of the appropriation they wanted. They went downstairs to the Committee on Appropriations, and the Committee on Appropriations gave them not only all they wanted, but more than they could possibly use. They repeated the same thing the next year, and I call attention to the hearings the committee had this year to illustrate the situation with reference to this identical appropriation—

Mr. FITZGERALD. Will the gentleman permit me—he is in error as to what happened. There has not been, to my recollection, any estimate before the Committee on Foreign Affairs on this matter prior to this year.

Mr. GARNER. Yes; last year there was an estimate of \$150,000 first sent in and then an estimate in a special letter to the Committee on Foreign Affairs reducing it to \$75,000, and the Committee on Foreign Affairs, after investigating the matter, found out that this commission had more money than they could possibly spend. I call attention to the fact now that this commission did not take its office until the 9th day of March, 1911. Seventy-five thousand dollars was appropriated for the fiscal year ending July 1. This commission did not spend more than one-third of the money during that fiscal year, or less than one-third of it.

Mr. FLOOD of Virginia. Ten thousand dollars.

Mr. GARNER. They spent about \$10,000 of the \$75,000, and the Appropriations Committee, this committee that wants to oust the jurisdiction of Foreign Affairs in order that they may practice economy, immediately appropriated \$75,000 and all of the unexpended balance. [Applause.] I have heard the gentleman from New York [Mr. FITZGERALD] talk economy, and when they come in here and request a committee which is practicing economy, practicing what they preach, and undertake to oust them from the jurisdiction of an item which they did not try to protect the Treasury against, it shows that the committee has been either extravagant or appropriated in gross ignorance of what the conditions or requirements were. [Applause.] Mr. Chairman, not only on this occasion but last year, as I said, there was an estimate of \$150,000 for this identical item, and when the Foreign Affairs Committee began to investigate it a letter was sent in saying they wanted to reduce the item from \$150,000 to \$75,000, and when we investigated it further we found that they did not want a dollar, that this commission had never met, as a matter of fact, but one time. They were not prepared to do any business. And to further illustrate the want of necessity for this appropriation at all, I call attention to the fact that out of this appropriation they not only had \$75,000 a year for these commissioners, but the President has allowed them, by Executive order, railroad fare, sleeping-car fare, all expenses paid, and then the small allowance of \$10 a day to get something to eat.

Mr. HARRISON of Mississippi. And a suite of offices.

Mr. GARNER. I find no hearings before the Appropriations Committee to warrant any of these facts, and yet the gentleman from New York comes in here and makes the point of order against this item being carried in this bill, claiming that originally jurisdiction belonged to his committee, a committee that, I submit the facts show, has not investigated the necessity of such appropriation, but immediately took charge of it and continued to appropriate blindly or extravagantly for this service.

Mr. COOPER. Mr. Chairman, the gentleman from New York [Mr. FITZGERALD] makes the point of order that, under the rules, the pending paragraph could not be reported by the Committee on Foreign Affairs, because, as he says, that committee had no jurisdiction of the subject matter.

Paragraph 11 of Rule XI provides that the jurisdiction of the Committee on Foreign Affairs shall extend to all measures touching "subjects relating" to the relations of the United

States with foreign nations, including appropriations therefor.

To decide the point of order two questions must be answered: First, does this paragraph concern the relations of the United States with a foreign nation? If so, does the appropriation contained in it have reference to such relations?

The paragraph refers plainly, and refers only, to the foreign relations of the United States. It provides for payment of the salaries and expenses of an "international" joint commission—an international joint commission appointed under the terms of a treaty between the United States and Great Britain. To consider what?

The use of the boundary waters between the United States and Canada. How is it possible, Mr. Chairman, to have any subject before the House of Representatives more properly included under the term "foreign relations" than are the proceedings of an international joint commission appointed to determine what shall be done with the boundary waters between this country and Canada, and appointed in pursuance of a treaty?

This is not a domestic affair of the United States; it is not a domestic affair of Great Britain. It is an international affair. The meetings of the commission must be joint meetings, both Canada and the United States being represented. Plainly the subject matter of this paragraph touches the relations of the United States with a foreign nation, and therefore the appropriation to pay the salaries and expenses of our representatives on this international joint commission was properly reported from the Committee on Foreign Affairs.

The gentleman from Texas [Mr. GARNER] was, I think, a little in error, although this perhaps is not germane to the discussion of the point of order, when he said that there had been but one meeting of the commission. I believe that the commission had four meetings and used up about 25 days out of 365.

Mr. MANN. Will the gentleman yield?

Mr. COOPER. Yes.

Mr. MANN. The gentleman from Texas [Mr. GARNER] was in error in stating they had only one meeting, and the gentleman from Wisconsin is in error in stating that they had only four meetings.

Mr. COOPER. It is immaterial. The number of meetings is not important. They did not meet 30 days altogether.

Mr. MADDEN. Does anybody know whether they have been traveling and covered the ground?

Mr. COOPER. They have been traveling. There is a gentleman on the floor who has the items.

Mr. FLOOD of Virginia. I have all the items of the expenditure. They are principally for salaries.

Mr. COOPER. The former chairman of the Committee on Appropriations, now a member of the International Joint Commission, knew that this subject was before the Committee on Foreign Affairs, but he went to the Committee on Appropriations. He ignored the Committee on Foreign Affairs and went to the committee of which he had been chairman. Why? Not because that committee had jurisdiction of this subject.

Mr. CANNON. Will the gentleman allow me? If he knows of an improper expenditure, I suggest to him that it is his duty to canvass it here and take us all into his confidence.

Mr. COOPER. I will say in reply to the distinguished gentleman from Illinois—

The CHAIRMAN. The gentleman from Virginia [Mr. SAUNDERS] is recognized.

Mr. SAUNDERS. The gist of the point of order made by the gentleman from New York is that the Committee on Foreign Affairs is appropriating contrary to law. If the Committee on Foreign Affairs has jurisdiction under the rules of this subject matter, then the fact that some other committee may have been appropriating from year to year in relation to the same, can not operate to oust the jurisdiction of the former committee. It is a familiar proposition that if appropriations are made from year to year for which there is no authority of law, these antecedent appropriations furnish no authority for a subsequent appropriation of the same character. The fact that the Committee on Appropriations may have appropriated in respect of this particular item, does not serve to divest the proper committee of its appropriate jurisdiction. What do the rules say with respect to the jurisdiction of the Committee on Foreign Affairs?

It has a broad jurisdiction over foreign relations, including bills to establish boundary lines between the United States and foreign nations.

In the year 1910, a treaty was made between Great Britain and the United States. A brief citation is made from that treaty to show its comprehensive scope, as well as plain intent:

Whereas a treaty between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, Emperor of India, to prevent disputes regarding the use of boundary waters and to settle all



questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise.

This treaty unquestionably relates to the very matters which are expressly committed under the rules to the jurisdiction of the Committee on Foreign Affairs. Hence in making the appropriation to which objection is offered, they have not assumed jurisdiction. On the contrary they have simply exercised their own jurisdiction. Whatever some other committee has heretofore done in making appropriations for this subject matter, however often those appropriations may have been made, they do not operate, and can not operate, to divest the proper committee of jurisdiction, unless the familiar rules and precedents of this body are utterly disregarded. It further appears in this particular case that the estimates for this expenditure were submitted to the Committee on Foreign Affairs. Later the effort was made to withdraw these estimates for submission to another committee. This abortive effort on the part of the department that submitted the estimates, is no more potent to divest the jurisdiction of the Committee on Foreign Affairs, than the appropriations heretofore made by another committee. Jurisdiction plainly attaches under the rules to the Committee on Foreign Affairs.

Mr. FITZGERALD. Mr. Chairman, the gentleman from Texas [Mr. GARNER] made certain references to the expenditure of this commission, to their character, and, if I understood him correctly, to the impropriety of certain allowances. The gentleman from Wisconsin [Mr. COOPER] has stated that the reason that this item has been carried and is now sought to be carried in the sundry civil bill is the fact that one of the commissioners was a former Member and the chairman of the Committee on Appropriations, and therefore he went to that committee, presumably from the statement of the gentleman from Wisconsin, because that would affect the judgment of the committee in the performance of their public duties.

Mr. Chairman, the identity of any persons affected by an appropriation has never made any difference to me. So far as I am concerned I do not pay any attention to such statements as these of the gentleman from Wisconsin. I believe that the Members of this House will recognize the fact that in the discharge of my public duties I have not been influenced by the consideration that any particular individual will be benefited by this or any other item.

This commission originally consisted of Mr. James A. Tawney, formerly a Member of the House and chairman of the Committee on Appropriations; the late former Senator Thomas H. Carter, of Montana; and the Hon. Frank S. Streeter, if I recall the name correctly, of the State of New Hampshire. After the death of Senator Carter, former Senator Turner, of the State of Washington, was appointed to his place upon the commission.

After the commission was appointed the then Government of Canada—I think it was known as the Laurier government—selected three commissioners on the part of Canada and forwarded their names to Great Britain, where it was necessary for them to be confirmed, if I recall correctly, by the Privy Council. Before action was taken in Great Britain upon the nominations submitted by the Laurier government the elections, growing out of the reciprocity bill, took place in Canada, and the Borden government succeeded the Laurier government. The confirmation of the nominations was held up, and a delay took place in the submission of the nominations for the membership of this commission by the Borden government to the Privy Council. Pending action, the gentlemen who had first been named had had, if I recall correctly, an informal meeting, and then awaited the action of the Borden government. The names of men representing the party that was successful in the election were substituted for the first nominees and more delay occurred, and the result was that a very considerable time, as I recall, elapsed before it was possible for this joint commission to meet since there were no members qualified on the part of the Canadian Government.

But that did not alter the fact that under the law the American commissioners had been appointed, had been confirmed, and were entitled to their compensation.

Mr. GARNER. Mr. Chairman, may I interrupt the gentleman right there?

Mr. FITZGERALD. Yes.

Mr. GARNER. Having made the statement that I did, to the effect that the appropriation was made in 1912 without reference to the amount in hand at that time, or the necessity for additional funds for the commission that year, when there was sufficient money on hand then to run it for another year, does not the gentleman think that under those conditions the Com-

mittee on Appropriations was not justified at that time in making an appropriation of \$75,000?

Mr. FITZGERALD. I think not, because it appeared that the commission, so far as it could be anticipated, in the transaction of its business would require a certain fund, and the fact that the amount was not expended was not an indication of extravagance on the part of the commission.

Mr. GARNER. I do not contend that the commission was extravagant, but here is my contention: I called the gentleman's attention to the fact that when they made that \$75,000 appropriation at the end of the fiscal year they had most of the \$100,000 unexpended. They did not need any of the \$75,000, and they had \$25,000 of the \$100,000 on hand. I have the statement of Mr. Busbey when he appeared before the committee.

Mr. FLOOD of Virginia. I have the statement of the appropriations. The first appropriation for this commission was made on June 25, 1910, for \$75,000, and during the next fiscal year for which that appropriation was made the commission expended \$10,630. Then the second appropriation was carried in the deficiency act of March 4, 1911. The amount was \$75,000, when they had \$65,000 on hand. Then, in August, 1912, when the gentleman from New York was chairman of the committee, the unexpended balance, which was \$103,000, was reappropriated.

Mr. FITZGERALD. That is true, and at that time the commission was for the first time in a position where it was anticipated that it could go ahead and transact its business.

Mr. FLOOD of Virginia. No; the Canadian commission had been appointed during the year 1911, and so, when that appropriation was made, the commission were entirely qualified to transact business, and early in the year 1912 they held their first meeting. But during the calendar year 1912, after they had organized and were ready to investigate all these questions, according to the statement of Mr. Busbey, their secretary, that commission were not in session over five weeks, and they only undertook to investigate one single question, a question relating to the Lake of the Woods, and nearly every dollar of money that they spent was taken up in the salaries of the commissioners, the salaries of a secretary, of clerks and stenographers, traveling and maintenance expenses, and the rent of luxurious quarters here in the Southern Building.

Mr. FITZGERALD. Mr. Chairman, as I recall the provisions of the treaty, this commission is somewhat unique in that its determinations are final and binding upon both Governments.

Mr. FLOOD of Virginia. As to some of the questions before it, but not all questions.

Mr. FITZGERALD. As to some of the questions. It is more like a final court than a commission that recommends. And as there had never been, as I recall, a situation like that, one of the difficult and the preliminary thing to be determined was the rules of procedure and the methods by which they should work. Then a question arose—

Mr. FLOOD of Virginia. May I interrupt the gentleman for a moment?

Mr. FITZGERALD. Certainly, but just permit me to complete my statement. A question arose then, as I recall, as to whether individuals should be permitted to institute proceedings before this commission, or whether they would be compelled first to apply to their respective Governments, and to have their Governments institute the proceedings. Now, the gentleman from Texas referred to the fact—

Mr. FLOOD of Virginia. Let me interrupt the gentleman there. The gentleman says a very difficult part of their work was to establish rules of procedure, and yet, according to the testimony of Mr. Busbey before the Committee on Foreign Affairs, the meeting at which they determined those things lasted less than a week.

Mr. HARRISON of Mississippi. Three days.

Mr. FITZGERALD. That may be true, Mr. Chairman, but the commissioners in advance had worked out and exchanged views and worked the rules into shape, and until they had finally got the drafts and the proposals in shape they did not meet. When they met at the city of Washington, according to my recollection, they thrashed out the question after the preliminary work had been done.

Now the gentleman from Texas [Mr. GARNER] has criticized certain allowances made to these American commissioners for expenses and subsistence made, as he states, pursuant to an executive order of the President. I do not find in this provision reported by the Committee on Foreign Affairs any limitation which would eliminate these abuses, if they be abuses, or which would curtail these allowances if they be improper.

Mr. FLOOD of Virginia. If the gentleman will allow me to interrupt him, we did this—

Mr. FITZGERALD. If the gentleman will permit me, the most ineffective method of legislating is to declaim against al-



leged abuses, criticize men for doing improper acts, and not apply the simple remedy of stopping them by appropriate language in the provision that makes the money available for the service.

Mr. FLOOD of Virginia. I will say to the gentleman that the Committee on Foreign Affairs put some very appropriate language in there that will stop the abuses complained of. We put in there language that cut down the appropriation this commission asked for. They asked for the unexpended balance and \$75,000 additional. We gave them the unexpended balance, which is \$80,000, which will curtail their extravagance.

Mr. FITZGERALD. The gentleman will not curtail any expenses by refusing to appropriate for services which under the law must be performed and for which under the law deficiencies can legally be incurred. The way to limit abuses and abolish them is to prohibit the expenditure of the allowances, or limit them to terms and conditions which, after investigation, are deemed appropriate.

Mr. GARNER. Mr. Chairman, I want to plead guilty to the charge of the gentleman from New York of having failed to itemize the appropriations in these unexpended balances.

Mr. FITZGERALD. I am not speaking of the appropriations. Mr. GARNER. But I want to call the gentleman's attention to the fact that the committee of which he is chairman has made a lump appropriation for three consecutive years, without outlining what these commissioners should receive or what their expenses should be. I am simply following in his footsteps to the extent of saving \$75,000.

Mr. FITZGERALD. I was not criticizing the fact that the appropriation had not been itemized.

The CHAIRMAN. The Chair will remind gentlemen that the question before the House is the point of order made by the gentleman from New York on the paragraph, and gentlemen are traveling some ways beyond that.

Mr. FITZGERALD. Mr. Chairman, I was simply referring to some statements that have been made here. I was not criticizing the fact that the appropriation had not been itemized. That would have made no difference. If the expenditure is authorized, it can be incurred whether Congress appropriates the money or not. If the President has improperly prescribed allowances for these commissioners, either for subsistence or traveling expenses, the way to cure the abuse is by prohibiting any expenditure for that purpose specifically.

I do not agree with the gentleman from Virginia [Mr. SAUNDERS]. The question has arisen in the past, and under the decisions that I have referred to—one by Mr. Blount, one by Mr. Payson, one by Mr. Hopkins—it has been held that where items have been carried in appropriation bills for a series of years the Chair will look to the condition of the appropriations, and that will control. In addition to that, I have referred to the statute of June 22, 1906, which undoubtedly makes this a violation of that act when it attempts to carry a provision over which the committee has no control.

The CHAIRMAN. The Chair is ready to rule. The Chair will not indulge in any argument, but he will say that he does not agree with the contention of the gentleman from New York that the Committee on Foreign Affairs has no jurisdiction over this matter. The Chair believes that the committee has jurisdiction over it, and has authority to make the appropriation. The point of order is therefore overruled.

Mr. FITZGERALD. Mr. Chairman, it might not affect the action of the Chair, but I hope the Chair did not overlook the fact that this paragraph creates an office not now authorized by law. The counsel provided there is not authorized in any treaty.

The CHAIRMAN. The Chair will say to the gentleman from New York that the Chair did not hear that point of order made.

Mr. FITZGERALD. I made that point of order.

The CHAIRMAN. There was some discussion that the Chair could not hear.

Mr. FLOOD of Virginia. I concede the point of order.

Mr. FITZGERALD. Then that would take out the whole paragraph.

The CHAIRMAN. The Chair did not understand the gentleman from New York to make that point of order.

Mr. FLOOD of Virginia. The point of order is to the proviso.

Mr. FITZGERALD. But it takes out the whole paragraph.

Mr. FLOOD of Virginia. I do not concede the point of order to the whole paragraph.

Mr. FITZGERALD. If the point of order is sustained to any part of it, it takes out the whole paragraph.

The CHAIRMAN. What part does the gentleman from New York make the point of order to?

Mr. GARNER. Mr. Chairman, just a moment. I submit that the provision objected to by the gentleman from New York

is not subject to a point of order unless the entire paragraph on the same ground is subject to a point of order. For instance, this paragraph authorizes—

Salaries and expenses, including salaries of commissioners and salaries of clerks and other employees appointed by the commissioners on the part of the United States with the approval solely of the Secretary of State.

I submit to the Chair that under this general provision you can appoint and employ counsel, and the committee has a right to limit as a matter of limitation the salary to be paid one of these employees.

The CHAIRMAN. Did not the Chair understand the chairman of the committee to concede that the point of order was well taken to that part of the paragraph in lines 17 to 21, inclusive?

Mr. FLOOD of Virginia. Mr. Chairman, I was perfectly willing for that part to go out, but the point made by the gentleman from Texas [Mr. GARNER], that the treaty gives full authority to provide for all employees, may be well taken—all employees that are necessary, and counsel is deemed necessary, and therefore I do not think the point of order would lie.

Mr. GARNER. I call the attention of the Chair to this one fact, that this treaty authorizes the employment of all commissioners, clerks, employees, and everyone necessary to carry it into effect. Suppose the committee had put in a proviso that the commissioner should receive only \$6,000, or a proviso that the clerk should receive only \$2,000. Would the gentleman from New York or anyone contend that that limitation on a salary of these employees was subject to a point of order? We are simply limiting the amount of money that can be paid counsel employed under the general provisions of this treaty authorizing the employment of different ones, and we can limit the payment to the clerk, or payment to the stenographer, or the amount paid to the commissioner, or make any other limitation we desire to place on it. We have only sought in this instance to limit the amount to be paid a counsel.

Mr. FITZGERALD. Mr. Chairman, I do not wish to take an unfair advantage of these gentlemen in this matter. Counsel can not be employed under the treaty. The State Department has been endeavoring to obtain authority to employ counsel, and the purpose of this item is not to limit the compensation of counsel, but to enable them to employ a counsel that the commission says is not needed and that the commission says should not be charged against the expense of the commission. If the treaty authorizes the employment of counsel, it is the duty of the gentleman from Virginia to produce the authority. I assert that it does not.

Mr. MANN. Mr. Chairman, even if the treaty authorized the employment of counsel the language in the paragraph is still subject to a point of order. If the treaty authorizes the employment of counsel as employees, it leaves it to the commission to determine how they shall be paid. Of course under the Holman rule, or as a limitation, you could insert a provision limiting the amount that shall be paid, but the Chair will notice on line 17 that—

Any counsel employed shall be at a fixed compensation.

That is legislation. If the commission now have authority to employ counsel, they have authority to employ counsel at a fixed compensation or not at a fixed compensation, and the very purpose of that language, as the gentleman will concede, is to require them to employ counsel at a fixed compensation, and that is legislation.

The CHAIRMAN. The Chair understands the gentleman from New York to make a point of order against lines 17 to 21, inclusive, on page 19?

Mr. FITZGERALD. Mr. Chairman, my point is against the paragraph, and if any portion of the paragraph is subject to a point of order the entire paragraph is subject to a point of order.

Mr. MADDEN. Mr. Chairman, this section of the bill does not appropriate for a counsel. It simply authorizes the employment of counsel at a fixed salary. It seems to me that it simply limits the authority which the commission already has.

Mr. FITZGERALD. But they have no authority.

Mr. MADDEN. If they have not any authority, then this seeks to give them authority.

Mr. CANNON. And that is legislation.

Mr. MADDEN. And it must be subject to a point of order. Under this provision of the paragraph you could employ 50 counsel. The language says—

That any counsel employed shall be at a fixed compensation.

It does not say that one counsel shall be employed; it does not say that any counsel shall be employed; but it does say that any counsel employed shall be employed at a fixed compensation not to exceed \$4,000.



Mr. COOPER. Mr. Chairman, in my judgment, the proviso relates rather to what appears after the semicolon in line 6, on page 19, as follows:

As well as for the payment of necessary expenses incurred and compensation for services rendered under the direction of the Secretary of State in the examination and preparation of cases involving the use, distribution, or diversion of waters, and other questions or matters of difference covered by the treaty of January 11, 1909, between the United States and Great Britain, and in representing this Government and the American interests involved in the presentation of such cases before the International Joint Commission constituted under that treaty.

That part of the paragraph plainly is a provision which contemplates the employment of counsel to prepare and present cases before the commission. The paragraph as a whole appropriates the unexpended balance—\$80,000—for all the purposes therein mentioned, including employment of counsel. Then follows the proviso limiting the amount which can be paid to any one counsel. It would seem that the proviso can well be considered a limitation proper under the rules.

Mr. FLOOD of Virginia. Mr. Chairman, if I may be permitted to do so, I will offer an amendment striking out those words.

Mr. FITZGERALD. But the gentleman can not offer an amendment when a point of order is pending.

Mr. FLOOD of Virginia. Then I concede the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. FLOOD of Virginia. Mr. Chairman, I offer as an amendment the whole paragraph, with the exception of the word "Provided," in line 16, and, in line 17, the words "That any counsel employed shall be at a fixed compensation, not to exceed \$4,000 per annum."

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

WATERWAYS TREATY, UNITED STATES AND GREAT BRITAIN: INTERNATIONAL JOINT COMMISSION, UNITED STATES AND GREAT BRITAIN.

For salaries and expenses, including salaries of commissioners and salaries of clerks and other employees appointed by the commissioners on the part of the United States, with the approval solely of the Secretary of State, including rental of offices at Washington, D. C., and necessary traveling and other expenses, and for the one-half of all reasonable and necessary joint expenses of the International Joint Commission incurred under the terms of the treaty between the United States and Great Britain concerning the use of boundary waters between the United States and Canada, and other purposes, signed January 11, 1909, as well as for the payment of necessary expenses incurred and compensation for services rendered under the direction of the Secretary of State in the examination and preparation of cases involving the use, distribution, or diversion of waters and other questions or matters of difference covered by the treaty of January 11, 1909, between the United States and Great Britain, and in representing this Government and the American interests involved in the presentation of such cases before the International Joint Commission constituted under that treaty, the unexpended balance of the appropriation made for this object for the fiscal year 1913 is hereby reappropriated and made available for this purpose.

Mr. CANNON. Mr. Chairman, I do not desire to get into a wrangle here about the loose talk that has been indulged in upon a point of order that was allude the point of order.

I am perfectly willing, if improper action has been had by anybody in connection with appropriations or legislation that is to be made, that it should be criticized. This commission, as I understand it, is a quasi court. Its jurisdiction under the treaty is important, and I desire to place, without taking time to read all of it, without objection, the history of this commission in the Record. Now, presto! Did this commission on the part of the United States, under this treaty, spring full-armed, like Minerva from the brain of Jove, with full power to call the spirits from the vasty deep and make a decision and award without regard to anybody else?

Mr. HAMILTON of Michigan. Minerva did not have any authority like that.

Mr. CANNON. She had pretty large authority, according to Grecian mythology. My friend from Michigan knows some things, but he was not there when Minerva came, and people say I was. [Laughter and applause.]

Mr. HAMILTON of Michigan. I did not suppose the gentleman from Illinois heard my observation.

Mr. CANNON. My friend's observations are always interesting.

Mr. HAMILTON of Michigan. The gentleman's hearing is becoming very acute.

Mr. CANNON. Oh, yes. Now, seriously, Mr. Chairman, the object of this treaty was that the water levels of the Great Lakes, the Lake of the Woods, various questions arising touching international borders, should be settled in some way between Canada and the United States or Great Britain and the United States. It provided for a commission by the United States and a commission by Canada. Now, then, the commission was appointed as the treaty provided, and it was the fixed law of the land when it was ratified on the part of the United

States. It has already been explained that there was some delay in appointing the Canadian commission that was not expected, growing out of affairs in Canada and a change of government there.

But early in 1912 the Canadian commission was appointed and the joint commission had meetings, not one meeting but several meetings. They met. How was the commission to proceed? Why, it was to proceed under rules and regulations. They met, considered the rules, made the rules, which were agreed to on the part of the United States and on the part of Canada. Well, how were questions to be presented? By the United States on one hand and by Canada on the other. That was the only way they could get jurisdiction. They could not roam around loose and assume jurisdiction, but it had to be submitted and it was submitted in many instances; four important instances, as the history which I will put in the Record shows, one touching the Lake of the Woods, which involved an investigation touching the tributaries of that lake; touching the boundary waters. Under the treaty made prior to that time, as I recollect the treaties heretofore, Canada owns to the center and we own to the center; and there were questions as to how Canada waters would be affected on one hand and waters of the United States on the other.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON. I ask for five minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. CANNON. Then came the question of the pollution of the waters. Now, the history shows that the engineers have been appointed—designated by Canada, designated by the commission on our part—to protect the interests of the United States and her citizens—

Mr. STEENERSON. Will my colleague yield?

Mr. CANNON. Yes.

Mr. STEENERSON. Is the gentleman aware of the fact that this question of the Lake of the Woods not only affects the actual water in the lake, but affects the harbor improvements on the lake and hundreds of thousands of acres of land settled on by homesteaders involving values amounting to millions of dollars?

Mr. CANNON. Oh, certainly, there could not be any more important question that could come before this commission than the subjects submitted. By whom? Under the treaty by the United States upon one hand and Canada upon the other.

Mr. STEVENS of Minnesota. Will the gentleman yield?

Mr. CANNON. In a moment. Can this commission turn a double somersault? Has it power to go out and view the land? Was that contemplated? It is a quasi court with quasi administrative powers and it proceeded in an orderly way. The members of the commission are not surveyors, so far as I know—not engineers. Subjects submitted to the commission had to be heard, and heard upon their merits.

Mr. STEVENS of Minnesota. Has the gentleman any information as to the first proposition, I think, submitted to this commission, practically from this House, which was concerning the Namekan dam, on a bill introduced by the gentleman from Minnesota [Mr. MILLER] which came up before the Committee on Interstate and Foreign Commerce, which recognized there was an international question in it? There was a dispute over it which almost amounted to bloodshed and would have made international complications, so the Interstate and Foreign Commerce Committee of this House directed that the proper department of the Government submit it under the treaty to which the gentleman has just alluded.

Mr. MANN. That is the dam at Kettle Falls?

Mr. CANNON. I am not informed touching that matter whether the greater included the less.

Mr. STEVENS of Minnesota. It is Rainy River.

Mr. CANNON. That matter is shown in the history, and under consideration by this commission, and the engineers are at work; and experts are preparing the cases upon the part of the United States and the Canadian experts are preparing the cases upon the part of Canada.

And yet they say, "What has this commission done?" As for the Livingston Channel, a man said in conversation with me—I will not give his name—"Where the devil is the Livingston Channel? Is that some water that was named after Livingstone, the great African explorer?" It is a very serious question. We have spent eight to ten millions of dollars on the Livingston Channel. There came up serious questions and protests from Canada as to the currents and cross currents and danger to the shipping. I am not mariner enough to understand the merits of the protest by the United States on the one hand and by Canada upon the other. Those have been submitted to this commission, and the experts are preparing the

case to submit to the commission. The commission went there in person, spending days, as I gather from the history. They went to the Lake of the Woods in person. There is a question of the pollution of the boundary waters, as it might affect Canada. That has been submitted on the part of Canada on the one hand and on the part of the United States upon the other hand to this commission. Other submissions have been made, and, forsooth, because a member of this commission happens to have been at one time a Member of this House—

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. CANNON. I would like five minutes more.

Mr. GARNER. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CANNON. There never was an abler or a more honorable Member of this House. [Applause.] I am glad he is on the commission. Oh, they have got expensive quarters. Yes; the rent is \$2,500 a year. They need the quarters, and the record, as I will print it, will show—and I hope gentlemen will do me the honor to read it to-morrow—that here is a great hurrah and smoke without any fire.

Mr. GARNER. Will the gentleman yield?

Mr. CANNON. I will yield to the gentleman presently.

Yes; it has a secretary at a salary of \$3,000 and a disbursing officer at \$1,000, which I learned for the first time by reading this history. It has a stenographer at \$1,200, and \$7,500 each a year is paid to the members of our court, and \$7,500 a year on the part of the Canadian court. Do you suppose an able commission is going to serve for nothing? Ex-Senator Turner is one of the members; Mr. Streeter, of New England, is another; and James R. Tawney is another. [Applause.]

Now, I do not know whether \$80,000 was spent up to the 1st of January. I doubt if \$80,000 is enough for the coming year—

Mr. FITZGERALD. I will say to the gentleman the information is that they have employed a number of engineers, and are doing, as shown in one of these items, a very large amount of field work that will require a great deal more money than \$80,000.

Mr. CANNON. And one of the reports, touching the pollution of water, says that one of the most competent sanitary engineers of the United States has indefinite leave of absence with this commission, without pay, to help prepare the case on the part of the United States for submission to the joint commission and who is to be paid from this appropriation. The salaries of our commissioners have to be paid from this appropriation. If they travel, I think \$10 a day is a reasonable amount for their travel and their subsistence. That is my notion about it. But I do not care to haggle about 15 cents in the presence of these great questions that are to be settled between Canada and the United States. Some people think the Members of Congress get too much; that their mileage is too large; and that their magnificent offices are too extravagant, and all that kind of thing. That is leather and prunella. That is haggling. What we want is honesty; what we want is industry; what we want is ability, and I think we have it in this commission.

For one, I want the appropriation sufficient to enable them now, inasmuch as they have gotten started, and the engineers and the sanitary officials are on the field at the Lake of the Woods, Rainy River, and Livingston Channel, and very important matters have been submitted, the settlement of which means hundreds of millions of dollars to the people of the United States, to continue with the work, and I think it would be pessimistic to deny the proper appropriation. They are at work now, are ready to work, the cases are preparing to be submitted, and I am going to move to increase this by \$75,000.

Mr. FLOOD of Virginia. I hope the amendment the gentleman offers will not be adopted.

Mr. CANNON. I have not offered it yet; but I will now.

Mr. FLOOD of Virginia. I hope the amendment which I have offered will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. Flood].

Mr. CANNON. Oh, well, I am content that a vote should be taken on the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. Flood].

The amendment was agreed to.

Mr. MURRAY. Mr. Chairman, I ask unanimous consent to return to page 2, line 19, for the purpose of asking a question of the gentleman in charge of the bill.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MURRAY] asks unanimous consent to return to page 2, line 19,

for the purpose of asking a question of the gentleman from Virginia [Mr. Flood].

Mr. FLOOD of Virginia. I can not answer the gentleman's question, Mr. Chairman. I object.

The CHAIRMAN. The gentleman from Virginia objects.

Mr. CANNON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting this history.

The CHAIRMAN. The gentleman from Illinois [Mr. CANNON] asks unanimous consent to extend his remarks in the RECORD by the insertion of the document named. Is there objection?

There was no objection.

The following is the statement referred to:

#### INTERNATIONAL JOINT COMMISSION HISTORY.

"For the purpose of preventing disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, a treaty between the United States and Great Britain was signed on January 11, 1909, and proclaimed by the United States on May 13, 1910.

"Under article 7 of the treaty the contracting parties—

"agree to establish and maintain an international joint commission of the United States and Canada, composed of six commissioners, three on the part of the United States \* \* \* and three on the part of the United Kingdom \* \* \*.

"Under articles 3 and 4 of the treaty the commission is required to pass upon all applications approved by either Government for the uses, obstructions, and diversions of boundary waters on one side which may affect the level on the other side of the boundary, and for the construction of dams or other obstructions in waters flowing from boundary waters, or in waters at a lower level than the boundary in rivers flowing across the boundary the effect of which is to raise the natural level of waters on the other side of the boundary. In all cases under these articles the decision of the commission is final. The commission under article 9 may also be called upon to examine and report upon any other questions or matters of difference arising between the two Governments involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other along their common frontier; such reports—

"shall not be regarded as decisions of the questions or matters so submitted \* \* \* and shall in no way have the character of an arbitral award.

"Questions or matters arising between the two Governments involving the rights, obligations, or interests of either in relation to the other or to their respective inhabitants may under article 10 be referred for final decision to the commission, in the case of the United States such action being taken with the advice and consent of the Senate.

"The treaty provides that the commission shall meet and organize at Washington, and when organized the commission may fix such times and places for its meetings as may be necessary, subject at all times to special call or direction by the two Governments. Under this language the two high contracting parties have the power, acting jointly, to call upon the commission for any service in relation to the settlement of any controversy between them; in the submission of any question, however, not covered by the treaty, the high contracting parties would have to agree that jurisdiction over such question or controversy be given to the commission either for final determination or for investigation. Under the rules of procedure adopted by the commission it is provided that regular sessions of the commission shall be held annually at Washington, beginning on the first Tuesday of April, and at Ottawa, beginning on the first Tuesday of October, and that special meetings may be held at such times and places in the United States and the Dominion of Canada as the chairmen of the two sections may determine.

"Article 12 defines the powers of the commission in respect to witnesses, administering oaths, issuance of subpoenas, etc.

"The commissioners of the United States on the International Joint Commission are James A. Tawney, of Minnesota; Frank Sherwin Streeter, of New Hampshire; and George Turner, of Washington.

"The treaty provides, in article 12, that—

"The United States and Canadian sections may each appoint a secretary, and these shall act as joint secretaries of the commission at its joint sessions; and the commission may employ engineers and clerical assistants from time to time as it may deem advisable. The salaries and personal expenses of the commission and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the commission, incurred by it, shall be paid in equal moieties by the high contracting parties.



"The members of the commission on the part of the United States were appointed March 9, 1911; the commissioners on the part of Great Britain were appointed November 10, 1911, notice of their appointment served on this Government December 1, 1911, and the chairman of the United States section notified December 6, 1911.

"Correspondence was at once begun to arrange for the organization of the commission in Washington, as required by the treaty, and this meeting was held January 10, 1912.

"The commission organized as a joint body on that date and remained in session until January 16, when, having completed a tentative draft of rules of procedure, a recess was taken until February 1 to enable the two Governments to consider these rules and approve or suggest amendments to the same. The commission resumed its session in Washington February 1 and considered various suggestions from the State Department of the United States and the Canadian Government for amendments to the rules of procedure. These rules of procedure were finally adopted February 2, ordered printed, and copies sent to the various individuals and corporations that had made applications to the two Governments for the use of international waters along the boundary, and to those who had presented protests against the granting of these applications. Notices were also sent to those interested parties that the commission would under the rules consider all applications referred by the two Governments for its approval at its first regular session.

"The first regular session of the commission to consider applications for the use of international waters was held in Washington, beginning Tuesday, April 2, 1912, and there was received from the Department of State of the United States the application of the Rainy River Improvement Co. for the approval of plans for a dam at Kettle Falls at the outlet of Lake Namakan in the Rainy River system; the application of the Watrous Island Boom Co. for approval of plans for a log boom in the Rainy River between the mouth of the Big Fork River and the mouth of the Black River. Under the rules of the commission notice of these applications was given to the Dominion Government and by that Government to the protestants against the approval of such applications, and notice of the applications was also published in the Canada Gazette and one weekly newspaper on each side of the boundary in the locality of the proposed improvements.

"These applications were to be heard at the Ottawa meeting of the commission on the first Tuesday in October, 1912, but the Dominion Government had not concluded its consideration of the plans, and a further delay was granted to November 18, when the commission held a special session in Washington to hear arguments on the question of jurisdiction of the commission in applications for approval of works extending from shore to shore of international streams. On November 18 the Dominion Government, by the attorney general of Canada, asked leave to file objections to both applications, notwithstanding the time for the filing of such objections under the rules of procedure had expired. The commission granted the request of the Dominion Government, and under the rules 30 days is allowed the applicant for reply.

"In the meantime the Governments of the United States and Great Britain, under article 9 of the treaty, referred to the commission three questions for investigation and report, viz: On June 27, 1912, the following questions were referred:

"1. In order to secure the most advantageous use of the waters of the Lake of the Woods and of the waters flowing into and from that lake on each side of the boundary for domestic and sanitary purposes, for navigation and transportation purposes, and for fishing purposes, and for power and irrigation purposes, and also in order to secure the most advantageous use of the shores and harbors of the lake and of the waters flowing into and from the lake, is it practicable and desirable to maintain the surface of the lake during the different seasons of the year at a certain stated level; and if so, at what level?

"2. If a certain stated level is recommended in answer to question 1, and if such level is higher than the normal or natural level of the lake, to what extent, if at all, would the lake, when maintained at such level, overflow the lowlands upon its southern border, or elsewhere on its border, and what is the value of the lands which would be submerged?

"3. In what way or manner, including the construction and operation of dams or other works at the outlets and inlets of the lake, or in the waters which are directly or indirectly tributary to the lake or otherwise is it possible and advisable to regulate the volume, use, and outflow of the waters of the lake so as to maintain the level recommended in answer to question 1, and by what means or arrangement can the proper construction and operation of regulating works, or a system or method of regula-

tion, be best secured and maintained in order to insure the adequate protection and development of all the interests involved on both sides of the boundary, with the least possible damage to all rights and interests, both public and private, which may be affected by maintaining the proposed level?

"On August 1, 1912, the following questions as to the pollution of boundary waters between the United States and Canada were referred:

"1. To what extent and by what causes and in what localities have the boundary waters between the United States and Canada been polluted so as to be injurious to the public health and unfit for domestic or other uses?

"2. In what way or manner, whether by the construction and operation of suitable drainage canals or plants at convenient points or otherwise, is it possible and advisable to remedy or prevent the pollution of these waters, and by what means or arrangement can the proper construction or operation of remedial or preventive works, or a system or method of rendering these waters sanitary and suitable for domestic and other uses, be best secured and maintained in order to insure the adequate protection and development of all interests involved on both sides of the boundary, and to fulfill the obligations undertaken in article 4 of the waterways treaty of January 11, 1909, between the United States and Great Britain, in which it is agreed that the waters therein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other?

"And on October 16, 1912, the following questions relating to certain improvements in the Detroit River were received by the commission:

"1. Under all the circumstances and conditions surrounding the navigation and other uses of the Livingstone and other channels in the Detroit River on either side of the international boundary, is the erection of any dike or other compensatory work deemed necessary or desirable for the improvement or safety of navigation at or in the vicinity of Bois Blanc Island in connection with rock excavation and dredging in Livingstone Channel authorized by the river and harbor act of June 25, 1910 (36 Stats., 655), and described in House Document 676, Sixty-first Congress, second session; sundry civil act of June 25, 1910 (36 Stats., 729); sundry civil act of March 4, 1911 (36 Stats., 1405), of the United States, and now being carried out by the Government of the United States?

"2. If, in answer to question 1, any dike or other compensatory works are found to be necessary or desirable, will the work or works proposed by the United States and provided for in the river and harbor act of June 25, 1910 (36 Stats., 655), and located so as to connect the north end of Bois Blanc Island to the southeast end of the existing cofferdam on the east side of Livingstone Channel, opposite and below Stoney Island, be sufficient for the purpose; and if not, what additional or other dikes or compensatory works should be constructed, and where should they be located in order to serve most advantageously the interests involved on both sides of the international boundary?

"A conference of the chairmen of the two sections of the commission was held at Montreal August 12, 1912, to consider the reference of the questions relating to the Lake of the Woods. Engineers were employed by authority of the commission, and met with the chairmen at Montreal for consultation as to the scope of the investigation. A preliminary hearing for the purpose of ascertaining the engineering problems involved in the Lake of the Woods investigation was deemed necessary, and accordingly a meeting of the commission was called at International Falls, Minn., September 17; Warroad, Minn., September 18; and Kenora, Ontario, September 20, 1912. Notices of these meetings were published on both sides of the boundary to give interested parties the necessary information as to the questions to be considered. The commission held public hearings at these points, which were largely attended by those interested in the lake levels, and the commission made a personal survey of the Lake of the Woods, the Rainy River, Rainy Lake, the various power developments, and the shores of the river and lake where there is danger to agricultural interests from overflow and erosion. Engineers were then instructed by the commission to prepare exact surveys and estimates as to relative advantages and injuries that might accrue from various lake levels and the best and most practicable method of solving the engineering problems involved in establishing and maintaining any certain level or levels that will best conserve the water-power, the navigation, the agricultural, and fishing interests in the Lake of the Woods and its tributary waters. At Ottawa, October 2, 1912, the commission instructed the engineers to report at its meeting in November. According to their instructions the engineers appeared and submitted the following preliminary re-

port showing the progress of the work they are employed to perform:

"ST. PAUL, MINN., November 14, 1912.

"THE INTERNATIONAL JOINT COMMISSION,  
"WASHINGTON, D. C.

"SIRS: Although at the present time your engineers are not in a position to present any conclusions based upon such data as we have collected bearing upon the investigation relating to a proposed regulation of the levels of the Lake of the Woods and tributary waters, yet there are certain data of a general character setting forth the relative magnitude of some of the chief physical factors involved in this investigation, which we feel it would be opportune to place before your commission, hoping that in so doing you may in some measure be assisted in your outlook upon the Lake of the Woods problems covered by the official reference.

"The area of the watershed involved in this investigation—I. e., the combined area of land and water surface above the outlet of the Lake of the Woods at Kenora, Ontario—as ascertained from maps at present available, is approximately 26,000 square miles, of which about 15,000 square miles are in Canada and 11,000 square miles in the United States. The watershed area above the mouth of Rainy River at its entrance to the Lake of the Woods is approximately 20,000 square miles. The area of the watershed tributary to the outlet of Rainy Lake at International Falls, Minn., is approximately 14,500 square miles, and the area which contributes to the waters entering Rainy Lake along the international boundary at Kettle Falls is approximately 7,300 square miles, of which about 4,000 square miles are in the United States and 3,300 in Canada.

"The larger of the individual watersheds within the watershed of the Lake of the Woods are:

"Name of river and approximate area of watershed in square miles.

Seine River	2,100
Little Fork River	1,900
Big Fork River	1,800
Turtle River	1,800
Kawishiwi River	1,400
Vermilion River	900

"The area of the Lake of the Woods itself is variously estimated, but 1,400 square miles may tentatively be considered as representing the area of this body of water. Rainy Lake has an area of approximately 325 square miles. Lakes Namakan, Kabetogama, and Sand Point have a combined area of about 100 square miles.

"Respecting run-off, it may be interesting to observe that a cursory examination of the discharge measurements for Rainy River at International Falls indicates a run-off in a low-water year equivalent to a continuous flow of about 4,500 second-feet. For purposes of illustration it may be said that if the entire run-off for a low-water year were stored in Rainy Lake it would correspond to a rise in the level of this lake of about 15 feet. If the whole watershed tributary to the Lake of the Woods were to yield a corresponding run-off to that above assumed for Rainy Lake, this would be equivalent to a continuous flow of about 8,000 second-feet, which, if all stored in the Lake of the Woods, would correspond to a rise of about 6½ feet. The data at present available indicate that in years of high water these quantities would be increased two or three fold.

"It may be well to emphasize that the quantities herein presented are not given as any basis for deduction, nor do they warrant any. They do, however, indicate the magnitude of some of the physical factors entering into the problem.

"It will be remembered that owing to sudden illness in September Mr. Meyer was prevented from carrying out at that time certain work upon which we had agreed. In Winnipeg, however, after the hearings at Kenora were concluded, Mr. White arranged for Canadian engineers to cooperate in an investigation designed to ascertain the relationship between existing gauges on the Lake of the Woods. Subsequently we agreed upon a detailed plan for this investigation, and upon Mr. Meyer's recovery we had the work performed. Essentially this work consisted in having simultaneous readings taken half hourly for about two weeks at the different gauges, the observers recording also wind, wave action, and other relevant conditions.

"We think it will be a gratification to the commission to learn that as a result of this correlation of gauges we find that the various records of gauge heights which have been taken from time to time extending back over several years are sufficiently reliable to make them of great practical worth in this investigation.

"It may also be stated that after his recovery Mr. Meyer personally went over the territory he had intended to visit in September and examined portions of the shore line of the Lake of the Woods with a view of discovering physical evidences relating to former prevailing levels of the lake. This question as to what has been the prevailing normal or natural level of the Lake of the Woods at different seasons of the year is one which is specifically referred to in the official reference, and consequently is a question which calls for special consideration. We would here intimate that various physical evidences were observed which seem to indicate that there was a time when the prevailing level of the Lake of the Woods was considerably lower than during recent years.

"On account of the fact that considerable storage possibilities are known to exist upon the watershed comprising the Birch Lake Basin, and in view of a proposed diversion of water from this basin into the St. Louis River, Minn., it was deemed advisable to secure run-off data for this portion of the Lake of the Woods watershed. As no means had been provided by any of the departments of the State of Minnesota or of the Federal Government of the United States for securing this information, we have had a self-registering gauge installed and a metering station established on the Kawishiwi River near the outlet of Garden Lake. This work has been done in a manner acceptable to the United States Geological Survey, and it is anticipated that the water resources branch of the survey will later assume responsibility for the operation and maintenance of this station.

"In conclusion we would say that we are still gathering data from various governmental and other sources, and as a result of these efforts considerable information of a reliable character and bearing upon the matters in hand has been assembled.

"It is our intention, when seasonal conditions are satisfactory, to make a further personal reconnaissance of portions of the Lake of the Woods watershed, in order to ascertain the extent and character of the field work which will be necessary to determine the best means by which regulation may be secured, and also to determine the possible

effect that certain schemes of regulation may have upon the various interests using the waters of the Lake of the Woods and the shores and harbors thereof.

"Respectfully submitted.

"ADOLPH F. MEYER,  
"ARTHUR V. WHITE,  
"Consulting Engineers.

"At the regular session of the commission in Ottawa, October 1, 1912, the questions relating to the pollution of boundary waters were taken up, and sanitary experts were consulted as to the extent of the pollution and the means whereby the treaty obligations could be maintained. The commission also considered the scope of these questions and requested of the two Governments information as to whether the investigation was intended to be limited to boundary waters covered by the treaty; that is, where the pollution on one side of the boundary extended to and affected the boundary waters on the other side, or whether the Governments intended the investigation should cover all boundary waters regardless, etc. The commission received from the two Governments on November 19, 1912, the following identical letter from the State Department:

"DEPARTMENT OF STATE,  
"Washington, November 19, 1912.

"INTERNATIONAL JOINT COMMISSION,  
"United States and Canada.

"GENTLEMEN: I have the honor to inform you that the Governments of the United States and Great Britain having considered the inquiry of the international joint commission as to the scope of the investigation required by the first of the two questions submitted jointly by the two Governments in their letter of August 1 last to the commission for their investigation and report, namely:

"To what extent and by what causes and in what localities have the boundary waters between the United States and Canada been polluted, so as to be injurious to the public health and unfit for domestic or other uses?

"Have reached an accord that the inquiry is to be confined to cases of pollution of boundary waters on one side of the boundary which extend to and affect the boundary waters upon the other side.

"I have the honor to be, gentlemen,

"Your obedient servant,

"P. C. KNOX.

"The commission consulted with and received the advice of sanitary experts from both the United States and Canada on November 20 as to how to proceed with this investigation, and invited the health authorities of the States and Provinces whose territory touches the water boundary between the two countries to cooperate in the investigation and to meet the commission at a conference to be held in Buffalo, December 17, 1912. The commission received assurances from a number of these State and provincial health authorities that they will heartily cooperate in this investigation, give the commission access to their records, the use of their laboratories, and the services of their scientists in the work.

"The commission on December 17, 1912, held a conference at Buffalo, N. Y., with the health authorities of the States and Provinces bordering on the international waters where the investigation is to be made, and received from these officials offers to cooperate to the extent their State and provincial laws and their appropriations would permit. At that meeting the commission decided to employ two sanitary experts, one representing each section, who should prepare detailed plans for a comprehensive investigation, and to have general supervision of the investigation under the direction of the commission.

"The commissioners from the United States consulted Dr. Blue, Surgeon General of the Public Health Service of the United States, as to the most experienced man for such work. The Surgeon General recommended Dr. Allan J. McLaughlin, of that service, because of his experience in making sanitary surveys of international and interstate waters, the results of which are embodied in Hygienic Laboratory Bulletins Nos. 77 and 83, and because of his comprehensive knowledge of the general subject referred to the commission by the two Governments. The chairman of the commission secured from the Secretary of the Treasury a leave of absence without pay for Dr. McLaughlin that he might be employed by the commission and cooperate with a Canadian expert in the preparation of detailed plans for the investigation. Dr. McLaughlin is now employed with Dr. T. A. Starkey, of McGill University, Montreal, who has been employed by the Canadian section, in the preparation of plans, which will be considered by the commission when it meets in Detroit in February. It is the purpose of the commission to begin the technical investigation early in March and press the work as rapidly as possible, considering the extent of the investigation to be made and the varied interests—international, national, State, and municipal—which must be considered.

"The commission also took up the reference of the Livingstone Channel, on November 19, in conference with Col. M. M. Patrick, United States Engineer Corps, stationed at Detroit and in charge of the Government work in the Detroit River. Mr. Stewart, engineer and chief hydrographic officer of the Dominion Government, was also present, and stated that during



this year he had collected engineering data and collected other information concerning the controversy growing out of the further improvement of the Livingstone Channel, but that he had not completed the work of tabulating and working up this data. The Dominion Government, by the attorney general of Canada, presented a request to the commission that the investigation of this question be deferred until Mr. Stewart had completed his work. The commission granted this request and postponed the beginning of this investigation until about the middle of February, 1913, when both Governments will be ready to submit their respective sides of this controversy. On December 3 the commission made a personal investigation of the Livingstone Channel, with Col. Patrick, of the United States Engineer Corps, who is in charge of the work, and Engineer Stewart, representing the Canadian Government.

"The foregoing is an outline of the commission's work and efforts to forward the consideration of the applications presented for its approval under articles 3 and 4 of the treaty, and the questions for investigation submitted by the two Governments under article 9 of the treaty.

"BENEFITS TO THE UNITED STATES.

"The three questions referred to the commission by the two Governments under article 9 of the treaty are of long standing, and the ordinary diplomatic exchanges have failed to bring solutions.

"The controversies over the water levels in the Lake of the Woods and tributary waters date back to the construction of a dam at the outlet of the lake by the Keewatin Power Co. in 1897. That dam raised the level of the lake, and settlers on the American shore complained that it caused their lands to be submerged. The construction of a dam across the Rainy River at International Falls caused complaints on the Canadian side of the boundary that it lowered the water level in the Rainy River below the falls and in the Lake of the Woods, to the embarrassment of navigation and power plants located at the outlet of the lake. There were also complaints from the Canadian side that the International Falls dam had raised the level of the water in Rainy Lake and Rainy River above the dam so as to cause much damage to property by erosion.

"The United States Public Health Service has made extensive investigations touching the pollution of interstate and international waters within the jurisdiction of this Government, but the ultimate value of these investigations must depend upon some international investigation and agreement concerning methods for the prevention of pollution injurious to the health and property on both sides of the boundary.

"The United States has expended more than \$9,000,000 in the improvement of the Detroit River for the accommodation of the immense shipping on the Great Lakes, and has constructed two channels through the rock bed of the river. The engineers recommended the construction of a dam or dike to protect the Livingstone Channel from cross currents, and also to prevent the channels from drawing off the water from Lakes St. Clair and Huron and lowering lake levels there. The Congress has authorized this work and made the appropriation for it, but since the dike or dam will have to be partly on Canadian territory the work has been delayed until an international agreement can be had.

"These three questions are now before the commission for investigation and the questions considered directly between the United States and Canada. The United States and Canadian commissioners are making personal investigations in each case, sifting out the real objections and advantages in an effort to harmonize them, with fair prospects of agreement."

Mr. MILLER. Mr. Chairman, have we passed the paragraph to which the amendment offered by the gentleman from Virginia [Mr. Flood] applies?

The CHAIRMAN. We have; but it is in order for the gentleman to offer a pro forma amendment to strike out the last word.

Mr. MILLER. I move, Mr. Chairman, to strike out the last word.

The CHAIRMAN. The gentleman from Minnesota [Mr. MILLER] moves to strike out the last word.

Mr. MILLER. This is in reference to the paragraph just up for consideration. Inasmuch as this matter has attracted so much attention, I think it is perhaps proper that I should say a word as to what I know about the conditions that have appeared before this commission recently. Nearly all of their activities have been expended in the vicinity of the northern part of Minnesota, which lies mostly in my district.

I will say to the House, and say it with the utmost fairness and honesty, that during the period of time I have been a Member of this House there have arisen constantly questions of

supreme magnitude connected with the northern part of the State of Minnesota. It happens that the boundary line between Canada and the United States, beginning at Lake Superior and extending westward for a considerable distance, is in the trough of a great drainage area, one of the greatest to be found on the face of the earth. There have never been laws, there have never been treaties, to define the respective rights of the people on either side of that line in and to the waters that originate in their respective territories.

On the United States side there are many streams rising and flowing into the international boundary-line streams; there are many acres of public domain; along these streams are water powers, and, Mr. Chairman, it is not possible to-day for Congress intelligently to legislate in respect to these water powers without recourse to this commission. The people of Canada have a property interest in every drop of water that falls within that drainage area within the United States.

We recently passed a bill permitting the establishment of a dam and a water power at International Falls, the outlet of Rainy Lake. No word was said as to how high that dam should be. The War Department of this Government tried to say it, and had to stop. There is a water power that is among the greatest in the country, and to-day, upon the banks of the stream, rising in majestic proportions, is the biggest paper mill in the United States, together with lumber mills now being constructed and others ordered to be constructed up and down on either side, and nobody knows whether that dam is being operated properly or not, and there are thousands of people on each side of the line that complain to-day about its operation. The rights of individual homesteaders, property owners, and men in business are all affected, with no law, no tribunal but this commission, to decide what shall be the operation of that great water power.

Mr. HAMILTON of Michigan. If the gentleman will permit, I would like to ask him what is the controversy with regard to the operation of the dam? Is it in regard to the flowage?

Mr. MILLER. It is in regard to the flowage and in regard to the pollution of the waters—

Mr. MANN. And also as to the height of the water.

Mr. KENDALL. What dam is that?

Mr. MILLER. The dam at International Falls, the outlet of Rainy Lake.

Mr. KENDALL. If there is any controversy on that proposition, it has not yet reached this commission.

Mr. MILLER. Oh, I beg the gentleman's pardon. The commission spent a week there last fall, and all questions arising have been referred to them.

Mr. KENDALL. Is this the Lake of the Woods proposition?

Mr. MILLER. No; this is the Rainy Lake proposition.

Mr. STEVENS of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Yes.

Mr. STEVENS of Minnesota. Will the gentleman explain as to the Namakan Dam?

Mr. MILLER. I was just coming to that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. I ask unanimous consent that the gentleman have five minutes more.

Mr. FLOOD of Virginia. I shall have to object.

Mr. MADDEN. The gentleman from Minnesota has not consumed much time.

Mr. MANN. I was going to suggest to the gentleman from Virginia that I do not think it is possible to finish this bill tonight. Why not adjourn and meet at 11 o'clock in the morning?

Mr. CANNON. I want to ask that the gentleman from Minnesota [Mr. MILLER] have the additional five minutes, because I only have general knowledge, while he has specific knowledge and, I think, can give the House some information.

The CHAIRMAN. The Chair will submit the request of the gentleman from Illinois for unanimous consent that the gentleman from Minnesota have five minutes additional time. Is there objection?

There was no objection.

Mr. MILLER. Mr. Chairman, this dam is at the outlet of Rainy Lake. Rainy Lake is not a small body of water or a small pond. It is a great lake, 50 miles long and varying from 5 to 15 miles in width, a great reservoir, half of it in Canada and half in the United States; and it is for this commission to decide the height to which the waters shall be raised by this dam, having regard to the interests of navigation, having regard to the interests of the property owners who border upon that lake, and having regard to the water powers in the streams flowing into that lake. It affects a great and growing industry in a great and developing country.

My colleague, Mr. STEVENS, has suggested that some word might be specifically said in regard to the Namakan Dam. This is a dam proposed to be erected in one of the tributaries of Rainy Lake for the purpose of developing the lumber industry of that region and some other features of that locality. The War Department tried to establish proper rules for the construction of the dam and had to stop. That is but an instance of a dozen or a score of similar cases now up or soon to come up in connection with this part of the State.

Mr. STEVENS of Minnesota. Does the gentleman know how long the controversy lasted with Canada over the construction of the International Falls Dam?

Mr. MILLER. A great many years.

Mr. STEVENS of Minnesota. Over 12 years.

Mr. MILLER. I know it was a great many years, and a working arrangement was only secured with the greatest difficulty.

Passing over many minor matters we come to the Lake of the Woods region, to the westward a little way. The Lake of the Woods is a great lake, many times greater than Rainy Lake, and most difficult problems arise in connection with this lake similar in character to those about Rainy Lake. Just beyond the Lake of the Woods is found another great water power. At this point are the great flour mills known as the Kenora Mills, of a magnitude almost rivaling those of Minneapolis and Rochester. No one has yet determined how the operation of that dam for these milling purposes affects the property owners to the eastward and in the United States, but it is for this commission to decide; and I know that this commission made a trip to investigate conditions at Rainy Lake last fall. They made a trip to the Lake of the Woods and investigated conditions there. They made a trip to Kenora and undertook in a tentative way the consideration of these great international questions that directly concern the Congress of the United States, because they intimately affect the welfare of a great many thousands of people in the United States and Canada, together with many millions of dollars.

Mr. MANN. And their jurisdiction is final.

Mr. MILLER. Their jurisdiction is final. Beyond their decree there is no appeal. It is of the utmost importance therefore that these men be amply provided with what? With the services of the best engineers they can get. We do not want cheap men who will do cheap work. God knows the West has suffered from incompetent surveyors, and suffered from criminal neglect, incompetence, and rascality of men who have been hired for a small sum and gone out and made mistakes. In a matter of such international importance this commission needs the services of the best men money can get; not extravagantly expended, but properly expended. Therefore I would suggest that instead of curtailing and belittling the work, we cooperate with them in furnishing them with the necessary funds properly to carry on the work that they have undertaken. [Applause.]

Mr. GARNER. Mr. Chairman, just a moment to put myself in a correct attitude before the House. The gentleman from Illinois [Mr. CANNON] and the gentleman from Minnesota [Mr. MILLER] have made it appear that an effort is being made to belittle the personnel of the committee and the work they are doing. I submit that there has been nothing said on either side of the House up to this good hour that will justify any such thought. It is easy enough to set up a straw man and knock him down.

What gave rise to this matter was that the gentleman from Illinois [Mr. CANNON] and the gentleman from New York [Mr. FITZGERALD] wanted to hold this item in their committee, and the Committee on Foreign Affairs thought they had jurisdiction and were fighting for their rights. As to whether the correct sum of money has been appropriated in this bill, I am unable to tell. The gentleman from Illinois [Mr. CANNON], who is on the Committee on Appropriations, which has been considering the sundry civil bill and is now ready to report it, has given us no information as to how much money is needed, but he has given us a wonderful history of this individual commission. It is easy enough to say that Mr. Tawney is a good man. I shake hands with you; you are no better friend of his than I am. It is easy enough to say that Mr. Busbey, the clerk of the commission, is an excellent gentleman, and in that we are in full accord. The question that arose here was the question of who had jurisdiction of this appropriation, and who ought to have the right to say how much money they shall have; and that question having been settled, there was no question on this side of the House as to the efficiency of the men.

I may say in my own mind that I imagine from what I have learned that it is not a real hard job; that it is a job that most anybody who is anxious to draw a salary, make a trip up into Canada, have a good time at the Government's expense, rail-

road and sleeping-car fares paid, and \$10 extra for getting something to eat, would be delighted to fill.

It is a right nice job, and I am satisfied that good and efficient men have got it. I know one of them, Mr. Tawney, and I know he is able and competent to fill the position. But the gentleman from Illinois [Mr. CANNON] and the gentleman from Minnesota [Mr. MILLER] have no right to suggest that we are criticizing this commission or criticizing the work the men are doing, for there has been no disposition on this side of the House to do it. It can be truthfully said that for the amount of work it has done up to date it has been the most expensive commission that this country has had since I have been a Member of Congress. Now, I do not mean to criticize them for that, because it has been impossible for the gentlemen on the commission to perform the duties on account of the men on the other side of the boundary line not being prepared to join them, and you can not expect gentlemen who need the money and have a certificate not to draw the salary. You can not blame the commission, having accepted its service way back in March, 1911, for drawing the salary, although they never met with the joint court for nearly a year afterwards or more than a year afterwards.

Nobody is criticizing them for drawing the salary. I do not know anything about their quarters; it may be necessary to have those quarters. I say it is the duty of your committee to ascertain, or else give it over to us and we will investigate and determine whether the quarters are proper or not. If they are, can any gentleman on the floor of this House point to a case where the Foreign Affairs Committee of this House has refused to make a legitimate and proper appropriation? Let him arise in his place and state one single instance when we have sought to hamper this Government. We have done one thing, we have tried to look into every appropriation that has come before that committee and every estimate, and we have only tried to cut down to the point where we thought we would be justified, not to affect the efficient service to the Government.

Now, Mr. Chairman, one thing further. I do not know whether this is sufficient money or not, and no one else seems to know. It may be the intention of this commission to employ an elaborate engineering corps, one of very high expense, one of very efficient service, but if it is it is the duty of this commission to make an estimate and make a showing before the Committee on Appropriations, if it wants to ignore the Committee on Foreign Affairs, and have some information upon which to base this appropriation, because the past history of it shows it has had more money than it could expend, although it has lived in luxury and has had every expense it could possibly call for ever since it was created.

Mr. CANNON. Mr. Chairman, I move to strike out the last two words. I care not, so far as the public service is concerned, what committee reports the appropriations of this commission for the consideration of the House. I am of the opinion that the Committee on Appropriations has jurisdiction. The chairman has decided to the contrary, however, and I have no mouthings to make about it.

I call the attention of the gentleman from Texas [Mr. GARNER] to the fact that it was in the argument on a point of order, a dead, dry, point of parliamentary law, that the gentleman from Texas [Mr. GARNER], in part, and some of the other members of the Committee on Foreign Affairs, traveled far outside—did not come within a mile of the point of order—and talked about extravagance; warned that it would be better for gentlemen on the Committee on Appropriations not to say anything about these expenditures. Yet the gentleman from Texas says that I set up a man of straw and undertake to knock him down.

Mr. Chairman, I recollect very well, and the Record will show, what the gentleman from Texas said heretofore, and how he said it. He said, "These be honorable men—oh, how I love the chairman of the commission; I honor him as much as does the gentleman from Illinois—but these gentlemen with fat jobs have not done much! Oh, no; they live in luxury—ah!" Why, Mr. Chairman, if you were to attack a woman, the best woman in the world, and say that she is virtuous and splendid and magnificent and that you love her fine character, and then end it by saying, "But, oh, oh—although—and notwithstanding"—that would be the best way to damn her reputation, because you would earn an audience by lauding her for her virtue and wisdom.

I do not care to enter further into the personal equation. I thought I was justified in referring to it, because of what had preceded it. It makes but little difference. Enough has been said, and the one-tenth part has not been said by the gentleman from Minnesota [Mr. MILLER], having knowledge more than I, and even from what little knowledge I have, living inland



as I do, on the prairies of Illinois, I know enough to say that there is not now as important a commission under treaty with a foreign nation in service, and never has been, as this, except commissions that have negotiated peace between nations.

That is all I want to say, except to add one more thing. I have read the testimony of one man, the secretary of this commission. Oh, the Committee on Foreign Affairs did not have knowledge of the fact that the Secretary of State was a proper man to consult in respect to this commission and its work! Instead, they send for an employee of the commission, the secretary, and his is the only testimony they have had. It is a well-tempered hearing, but after all, the temper of a part of the committee was shown—the preconceived temper—and it may be seen from the fair examination of the hearings. Anyone can read it and see how it crops out there.

Mr. FLOOD of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CANNON. Yes.

Mr. FLOOD of Virginia. I do not think that conclusion of the gentleman is fair. The committee did undertake to get the members of this commission before it and failed. We asked Mr. Busbey to get either Mr. Tawney or ex-Senator Turner to come before our committee and give testimony, but they did not do it. Mr. Tawney was not in the city, but Mr. Turner was.

Mr. CANNON. Request made! Did the gentleman send a request to these gentlemen?

Mr. FLOOD of Virginia. We did.

Mr. CANNON. By letter?

Mr. FLOOD of Virginia. No; we sent it through Mr. Busbey.

Mr. CANNON. Were they notified by the Sergeant at Arms? Did you issue a subpoena?

Mr. FLOOD of Virginia. Oh, no.

Mr. CANNON. Oh, no!

Mr. FLOOD of Virginia. We followed the same course we do when we wish a Cabinet officer to testify before our committee and what any other committee would have done in an honest attempt to get those men before us. We had their secretary there and we sent for them by him. We thought this notice sufficient to bring the one who was in the city before the committee to defend an appropriation the commission was asking, and it was.

Mr. TOWNSEND. Mr. Chairman, I move to strike out the last two words. I want to say to the committee that the heat that has been developed in this discussion is entirely justified in the minds of those who listened to the examination of the secretary of this extraordinary body. It is a poor, miserable, drab performance. We had the one man before us who should have known everything that could justify these expenditures of the Government's money, and his performance before us was pitiful. We examined him, man after man, men sitting on both sides of this Chamber; we asked him what the duties of this commission were, and he did not know. He could parrot forth something from the statutes, but the net result of that examination was that we learned that here is a commission whose members draw \$7,500 a year salary, whose expenses are paid to distant and interesting and romantic spots in Canada and the United States; who occupy here in Washington six offices in an expensive office building. And I pledge you my word that, absolutely divesting this thing as much as I can of all partisanship, the net result we obtained from the witness we had before us was that his duties for more than a year had been to sign checks for the commissioners, and the Government was paying a very considerable salary to a man to fill in the checks so that the secretary need have no other duty than to sign the checks.

It is simply drab, my brothers; it is awful. There was not a member of the committee who had so much as an explanation to give that justified this expenditure. It was a lame-duck proposition, and the lame ducks had not been trained to show a good excuse for their living. [Applause.]

Mr. MANN. Mr. Chairman, the gentleman from New Jersey [Mr. Townsend] is very much interested in having a Government engineer assist in reference to the harbor lines in New York—

Mr. TOWNSEND. Without pay.

Mr. MANN. With pay, as passed by the House.

Mr. TOWNSEND. Oh, well, the gentleman can say—

Mr. MANN. I am not going to argue the question with the gentleman.

Mr. TOWNSEND (continuing). The gentleman can say with pay, but the resolutions said without pay.

Mr. MANN. Well, most every man along a little strip of the Atlantic coast does not think or know that there is any other part of the United States. This was a commission created not for the purpose of providing places for lame ducks, but for

the purpose of adjusting disputes between Canada and the United States. Lo and behold, the great Committee on Foreign Affairs of the House, with Canada lying just a step away from us, comes into this House this afternoon and one after another rises on the floor of this House and abuses a commission of the United States, making misstatements concerning a commission of the United States, every word of which will be sweet news to the other side of the Canadian line. Over there they are more patriotic, and it is largely a matter of patriotism. They defend their commission and their commissioners. Over here the commission is attacked individually and as a commission without cause, without justice, to show, I suppose, and to prove the frame of mind, the cool, calm, deliberate frame of mind in which the Committee on Foreign Affairs treats the great foreign relations of our United States, and especially the relations between the United States and Canada. What some of these gentlemen ought to do is to move over to Canada and become real Canadians where possibly they could not do as much good over there for Canada as they can here by abusing a commission of the United States intrusted with the performance of great duties. I am sure the gentleman from Texas [Mr. GARNER] did not realize what his remarks were. If he reads them, he will see that he went way beyond, I think, what was in his mind. For a moment he said the commission did not have a meeting until nearly a year after it was appointed, and then corrected himself after he had reflected and said they did not have a meeting until more than a year after they were appointed. That statement is equally correct with most of the other positive statements made in this House by these members of this committee in reference to this matter; it is incorrect, wholly incorrect. I hope that the gentleman from Texas and these other gentlemen when they are correcting their remarks to be put in the permanent Record will at least consider that the United States ought to have some thought from them in preference to giving it all to abuse of an American commission in the interest of the Canadian question.

Mr. CANNON. Mr. Chairman, I move to strike out the last four words, and I will take but a minute. I desire, after the gentleman from New Jersey [Mr. Townsend] has made his remarks touching Mr. Busbey, the secretary of that commission, and his examination, not to take the time of the House to read that examination, but to put it in the Record. I ask permission that I may print it in the Record as part of my remarks.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to insert as part of his remarks the paper to which he has referred.

Mr. TOWNSEND. All of his remarks?

Mr. CANNON. All of his remarks.

Mr. TOWNSEND. All of Mr. Busbey's examination?

Mr. CANNON. All of Mr. Busbey's examination.

Mr. TOWNSEND. From his entrance until his exit?

Mr. CANNON. Both.

Mr. TOWNSEND. Well, I will be very glad to have that done.

Mr. CANNON. From Alpha to Omega.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The statement is as follows:

STATEMENT OF MR. L. WHITE BUSBEY, SECRETARY OF THE INTERNATIONAL JOINT COMMISSION, WASHINGTON, D. C.

The CHAIRMAN. State what position you occupy in this joint high commission.

Mr. BUSBEY. I am secretary and special disbursing officer of the International Joint Commission.

The CHAIRMAN. State what work they are doing, the amount of the appropriation that is needed, and, as near as you can, give us a detailed statement of how this appropriation is to be used.

Mr. BUSBEY. I would like to say, Mr. Chairman, that Mr. Tawney, the chairman of the International Joint Commission in the United States, was informed of a change of reference, and I was under the impression that he appeared 10 days ago before the Appropriation Committee on this estimate. He was called there. This document [indicating], making a change of reference in harmony with the law, was sent to the commission.

The CHAIRMAN. Here is the document to which Mr. Busbey refers. It is from Secretary MacVeagh to the Speaker of the House of Representatives, and reads as follows:

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,  
TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, December 9, 1912.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the Secretary of State of the 7th instant, inviting attention to the fact that the estimate of appropriation for the expenses of the International Joint Commission, United States and Great Britain (waterways treaty), for the fiscal year ending June 30, 1914, was inadvertently submitted with his estimates for foreign intercourse, as appears on page 279 of the annual Book of Estimates, instead of under the chapter for miscellaneous, Department of State, for inclusion in the sundry civil bill, where the same has heretofore been provided.

He therefore requests that the item be transferred from the estimates for foreign intercourse and be included in the sundry civil bill

among miscellaneous items under the Department of State, in order to carry out the provisions of the law requiring estimates of appropriations to follow preceding appropriation acts.

Respectfully,

FRANKLIN MACVEAGH, Secretary.

Then the Secretary of State's letter is to Mr. MacVeagh, and says:

DEPARTMENT OF STATE,  
Washington, December 7, 1912.

The SECRETARY OF THE TREASURY.

SIR: In examining the Book of Estimates of appropriations required for the fiscal year ending June 30, 1914, it is noticed that the estimate for the International Joint Commission, United States and Great Britain, for \$75,000, has been included under the head of "Foreign intercourse." It was the intention of this department at the time the estimate was submitted to follow the general requirements of law and have his particular estimate made a part of the miscellaneous items to be included in the sundry civil act, in view of the fact that the appropriations for this purpose have heretofore been made in that act and the law apparently requires the estimates for new appropriations to follow preceding appropriation acts.

I shall be glad, therefore, in the event that you concur in these views, to have you take such steps as may be necessary to have the error corrected and the estimate included among the miscellaneous items for consideration in connection with the sundry civil bill. I have the honor to be, sir,

Your obedient servant,

P. C. KNOX.

Mr. BUSBEY. There was a supplemental estimate which was also referred there. And, although I do not know definitely, I am under the impression that Mr. Tawney appeared before that committee regarding both the original estimate and the supplemental estimate.

The CHAIRMAN. This item was carried in the sundry civil bill last year?

Mr. BUSBEY. Yes. The original item in the appropriation act for 1911 was carried in the sundry civil bill; that for 1912 was in the sundry civil bill, and that for 1913. It has been carried in the sundry civil bill since the treaty was ratified and provision made for the commission.

The CHAIRMAN. How did it originally get in the Appropriations Committee?

Mr. BUSBEY. I am really not informed on that.

Mr. KENDALL. It is probable the treaty was ratified after it was too late to get it in the diplomatic bill.

Mr. BUSBEY. Probably that was the case. I am not informed as to that, but I have an impression that this went in the sundry civil bill under an amendment in the Senate.

Mr. TOWNSEND. Mr. Chairman, may I be permitted to ask the witness a question?

The CHAIRMAN. Certainly.

Mr. TOWNSEND. It is simply that I know we have him before us, and I know he is very well informed and might give us some information which others besides myself do not possess.

What useful duties does your joint commission perform which could not be equally well performed by the machinery of the State Department?

Mr. BUSBEY. That might lead into my discussing a question of the relative merits of the State Department and the commission. I will say to you that the principal work before this commission at the present time is under articles 9 and 10 of the treaty, by which it is provided, in article 9, that the parties to the treaty may refer any question of difference between the parties themselves or their inhabitants along the common frontier between the United States and Canada for investigation and report. Article 10 provides that both parties to the treaty may refer any question of difference between them or their inhabitants along the common frontier to the commission for investigation or for adjudication.

Mr. TOWNSEND. That, Mr. Busbey, is interesting, but it does not satisfy my natural curiosity to know why this very considerable sum of money is asked from Congress to perform a duty which, perhaps, Congress has already liberally appropriated for in its various items for the State Department. I think my curiosity is probably shared by other members, and if you can inform us what you do that the State Department and Diplomatic and Consular Service would not perform, it would be a very great favor.

Mr. BUSBEY. I would be very glad to submit a statement which I prepared, which was asked for by the State Department, regarding the work that was being done by the commission. They asked me to prepare it that the Secretary might have the material before him, and I have a copy of it here.

Mr. TOWNSEND. I will not ask you to read that now, but if you feel disposed to give me, in a few words, what you do that the State Department can not do, I shall be highly gratified.

Mr. BUSBEY. I think the original purpose, as explained in the treaty, of the commission was in reference to a number of questions that had been pending, and they had not been adjudicated by the ordinary diplomatic interchanges, and it was felt that by bringing the two parties together, the direct representatives of Canada with the direct representatives of the United States, they might make better progress and get more satisfactory results.

Mr. HARRISON. How often does the joint commission meet, Mr. Busbey?

Mr. BUSBEY. The commission has fixed two definite dates for its regular meetings. In Washington it is the first Tuesday in April, and in Ottawa, Canada, the first Tuesday in October.

Mr. HARRISON. Have they met?

Mr. BUSBEY. Yes. It is provided also that the chairman of the commission should call special meetings of the commission and fix the place or time.

Mr. HARRISON. Has he ever called a special meeting?

Mr. BUSBEY. Yes; several.

Mr. HARRISON. How many times?

Mr. BUSBEY. Let me explain right there that the two Governments in July referred to the commission a question which had for some years been a matter of controversy—regarding the level of the Lake of the Woods. The two Governments referred to the commission the question as to whether a stated level of the water there could be maintained, and if so by what methods that could be accomplished. The chairman of the commission called a meeting at International Falls September 17. We had hearings there of all the interested parties; and at Warroad, Minn., on the 18th; and at Kenora, Ontario. We spent a week there at that time.

Mr. HARRISON. Is that this last year?

Mr. BUSBEY. Yes; it was last fall.

The CHAIRMAN. At their regular meetings how long is the commission in session?

Mr. BUSBEY. The commission was in session here for a week the 1st of April. They formulated their rules of procedure in February, immediately after the commission was organized, and then the State Department referred to the commission the application.

The CHAIRMAN. All I am trying to get at now is how much time, taking the calendar year 1912, the commission was in session during that year.

Mr. BUSBEY. In formal session they were together January and February, a week each time, and in April; and then there was a conference at Montreal in July.

The CHAIRMAN. Was that a week?

Mr. BUSBEY. No; they were only two or three days there. Then this hearing on the Lake of the Woods question in September, the regular meeting at Ottawa the first week in October, in Washington in November, at Detroit, and at Buffalo in December.

The CHAIRMAN. They were in session a week in January, a week in February, a few days about the Lake of the Woods matter, and a week in October?

Mr. BUSBEY. They were a week at Kenora on the Lake of the Woods proposition.

The CHAIRMAN. Five or six weeks in session during the year?

Mr. BUSBEY. Yes.

Mr. CLINE. How many cases were disposed of during the year?

Mr. BUSBEY. They have not disposed of any.

Mr. HARRISON. What salary do you pay the commissioners?

Mr. BUSBEY. \$7,500.

Mr. HARRISON. How many employees are there?

Mr. BUSBEY. They have a secretary and a clerk here.

Mr. HARRISON. How much does the secretary get?

Mr. BUSBEY. The secretary gets \$3,000 as secretary and \$1,000 as disbursing officer of the commission.

Mr. HARRISON. What is the balance of the appropriation used for?

The CHAIRMAN. You did not ask him what the clerk receives.

Mr. HARRISON. I thought he stated what the clerk received. How much does the clerk get?

Mr. BUSBEY. The clerk receives \$2,250.

Mr. HARRISON. What is the balance of the appropriation used for?

Mr. BUSBEY. There has not been so very much of it used, but they have begun these investigations. This investigation at the Lake of the Woods is a technical investigation for which engineers had to be employed, because it is a controversy between the agriculture interests, the power interests, and the navigation interests as to the maintenance of water levels there, and the question of conservation enters into it. These two Governments have also referred to the commission the question of investigating the pollution of boundary waters. It has been agitated in both countries for some time, and the commission now has experts preparing a plan for that investigation, which will necessarily be rather expensive.

The CHAIRMAN. What have their appropriations been heretofore?

Mr. BUSBEY. The original appropriation was \$75,000, and that appropriation was not used. The commission was not appointed until in March, 1911. In the appropriation bill for 1912 they appropriated \$75,000 and the unexpended balance, and last year in the sundry civil bill they made the appropriation of the unexpended balance of the appropriation that was then unused.

Mr. KENDALL. Unexpended?

Mr. BUSBEY. Yes.

Mr. BARTHOLOMT. Does the treaty specifically provide for a joint high commission?

Mr. BUSBEY. It does.

Mr. BARTHOLOMT. What appropriation does the Dominion of Canada make?

Mr. BUSBEY. \$75,000.

Mr. BARTHOLOMT. The same as we do?

Mr. BUSBEY. Yes.

Mr. KENDALL. When was this treaty negotiated?

The CHAIRMAN. It is the same treaty we have been discussing in the Niagara Falls matter.

Mr. KENDALL. What is the date of the ratification of that treaty?

The CHAIRMAN. The treaty was ratified by the Senate. It was negotiated in 1909.

Mr. CLINE. It was proclaimed March 13, 1910.

Mr. KENDALL. It was ratified then?

Mr. CLINE. No; it was ratified by the Senate March 3, 1909, and ratified by Great Britain March 31, 1910, and proclaimed by both Governments, I suppose, March 13, 1910.

Mr. KENDALL. And it became operative March 13, 1910?

Mr. CLINE. It became operative March 13, 1910.

Mr. KENDALL. And that treaty provides that the Government may constitute this national commission?

Mr. CLINE. They agreed to do it.

Mr. KENDALL. Then following that, in 1911, was there legislation creating this joint commission?

Mr. BUSBEY. Yes.

Mr. KENDALL. And providing for their salaries?

Mr. BUSBEY. No. The provision was that the President should fix the salaries.

Mr. KENDALL. In 1911 the President established the commission and appointed whom as commissioners?

Mr. BUSBEY. The original commissioners were Thomas H. Carter—

Mr. KENDALL. Senator Carter from Montana.

Mr. BUSBEY. James A. Tawney.

Mr. KENDALL. Of Minnesota.

Mr. BUSBEY. And Frank S. Streeter, of New Hampshire.

Mr. KENDALL. Senator Carter has since died.

Mr. BUSBEY. He died in September, 1911. He was succeeded by ex-Senator George Turner, of Washington.

Mr. KENDALL. So, Tawney, Streeter, and Turner are now the commissioners?

Mr. BUSBEY. Yes.

Mr. KENDALL. And you were made secretary?

Mr. BUSBEY. I was at the beginning.

Mr. KENDALL. At the beginning?

Mr. BUSBEY. Yes.

Mr. KENDALL. Your first appropriation was in 1911, for \$75,000, which was not expended?

Mr. BUSBEY. No. I say that in the appropriation for the fiscal year 1911 it was \$75,000, and the commission was appointed, the American members of the commission, in March, 1911, so a very small portion of that appropriation was used by July. Then the appropriation for the year 1912 was \$75,000 and the unexpended balance.



Mr. KENDALL. \$75,000 plus whatever that balance was?  
 Mr. BUSBEY. Yes.  
 Mr. KENDALL. Then that appropriation was not all expended?  
 Mr. BUSBEY. No.  
 Mr. KENDALL. And the appropriation for 1912 was for \$75,000?  
 Mr. BUSBEY. No.  
 The CHAIRMAN. For the unexpended balance?  
 Mr. BUSBEY. For the unexpended balance of the appropriation. There was something over \$100,000 unexpended the 1st of July, 1912.  
 Mr. KENDALL. Of the two appropriations?  
 Mr. BUSBEY. Of the two appropriations. The language of the last appropriation act is "the unexpended balance of all previous appropriations for this purpose."  
 Mr. KENDALL. That was substantially \$100,000?  
 Mr. BUSBEY. Yes; substantially \$100,000.  
 Mr. KENDALL. Now you are asking for \$75,000 for this year?  
 Mr. BUSBEY. I understand the estimate reads for \$75,000.  
 Mr. KENDALL. You have mentioned one question which has been considered by the commission—the determination of the level of the Lake of the Woods?  
 Mr. BUSBEY. Yes.  
 Mr. KENDALL. This question has engaged the attention of the commission of sanitation.  
 Mr. BUSBEY. There are two other questions: The investigation of the pollution of boundary waters and the question of the Livingston Channel in the Detroit River.  
 Mr. KENDALL. What is that question, Mr. Busbey?  
 Mr. BUSBEY. That is a question of where the Government of the United States has constructed two great channels there to aid shipping at an expenditure of something like \$10,000,000, but the engineers were—  
 Mr. TOWNSEND. You are speaking now of the Army engineers?  
 Mr. BUSBEY. Yes.  
 Mr. TOWNSEND. The Army engineers did the work?  
 Mr. BUSBEY. The Government of the United States did this work there. As I understand the question, their plan contemplated a dike to protect the Livingston Channel from cross currents which would endanger shipping and also to protect to a certain extent the level of Lake St. Clair. The appropriation was made for the investigation for carrying out that work, as I understand. The people of Emmetsburg, a small town on the Canadian side of the Detroit River, objected to the construction of this dike, a part of which must be constructed on Canadian territory. There was considerable diplomatic interchange regarding the matter, and the work was suspended and is suspended now. In the fall, in September or October, the two Governments referred this question to the commission for investigation as to whether this dike would injure the people of Emmetsburg or anyone there and also as to whether it was absolutely necessary. The commission met here in November and immediately took that question up. The Canadian Government represented that the chief of their engineers had made an investigation but had not completed his report and asked the commission to postpone the further consideration of that question until he could have his report ready. They have been notified that Mr. Stuart, the Canadian engineer, will be ready to report, as will Col. Patrick, the engineer of the United States in charge of Detroit, and the commission will meet in Detroit on February 17 to have a hearing on that question.  
 Mr. TOWNSEND. All the questions that have been presented to the commission so far have been questions which demand peculiarly the experience and knowledge of expert engineers?  
 Mr. BUSBEY. Those two questions.  
 Mr. TOWNSEND. Yes; the Lake of the Woods question and the Livingston Channel question.  
 Mr. BUSBEY. Yes.  
 Mr. TOWNSEND. And the pollution of boundary waters?  
 Mr. CLINE. And the question of sanitation.  
 Mr. TOWNSEND. And the question of sanitation. Of course, the commissioners we have appointed have, none of them, any special information on either one of those questions, and they have had to be informed by engineers of the United States Army in regard to them.  
 Mr. BUSBEY. Yes.  
 Mr. TOWNSEND. When this commission meets in Ottawa I suppose the United States commissioners will get their expenses also?  
 Mr. BUSBEY. Yes.  
 Mr. TOWNSEND. How much is allowed for expenses?  
 Mr. BUSBEY. They are allowed, under the President's order, \$10 a day for their expenses in addition to transportation. They get, in lieu of hotel and expenses, \$10 a day.  
 Mr. TOWNSEND. That is, the railroad fare and sleeping-car fare are paid in one item, and then, in addition to that, they get \$10 a day for hotels?  
 Mr. BUSBEY. Yes.  
 Mr. TOWNSEND. And I suppose when they have a session in Ottawa the clerical force goes there, too?  
 Mr. BUSBEY. The secretary.  
 Mr. TOWNSEND. And an allowance, of course, is made for him?  
 Mr. BUSBEY. Yes; his actual traveling expenses.  
 Mr. TOWNSEND. Including hotels and everything?  
 Mr. BUSBEY. Yes.  
 The CHAIRMAN. Does the commission get its traveling expenses when it comes to Washington?  
 Mr. TOWNSEND. Yes.  
 Mr. HARRISON. What is the salary paid the commissioners on the part of Canada?  
 Mr. BUSBEY. \$7,500.  
 Mr. HARRISON. The same as here?  
 Mr. BUSBEY. Yes. The appropriation is the same.  
 Mr. KENDALL. What is the present state of your fund? I understand you to say you are disbursing officer?  
 Mr. BUSBEY. Yes.  
 Mr. KENDALL. You had about \$100,000 at the time the last bill was up?  
 Mr. BUSBEY. Yes.  
 Mr. HARRISON. What is the present status of the matter?  
 Mr. BUSBEY. At the close of the year, December 31, 1912, our appropriation was \$80,000.  
 Mr. HARRISON. Nineteen hundred and what?  
 Mr. BUSBEY. December 31, 1912.  
 Mr. CLINE. You have \$80,000 on hand?  
 Mr. BUSBEY. Yes; about—a little less than that, or \$78,000, in round numbers.  
 The CHAIRMAN. And you have six months to run?  
 Mr. BUSBEY. Yes; but with these investigations just practically beginning. The commission has made very little expenditure on these

investigations that were covered into the annual year of 1912. The expenses of these investigations practically began along in December.  
 The CHAIRMAN. When did the commission organize?  
 Mr. BUSBEY. The commission organized as a joint commission the 10th of January, 1912.  
 The CHAIRMAN. When did the commission organize here? When did the salaries of the commissioners and its employees begin?  
 Mr. BUSBEY. The American members of the commission were appointed March 16, I think, 1911. [After consulting memoranda.] The members appointed from the United States were appointed March 9, 1911.  
 The CHAIRMAN. They have not been in existence two years, then?  
 Mr. BUSBEY. No. The Canadian members of the commission were appointed November 10, 1911.  
 The CHAIRMAN. In that two years the salaries of the commissioners and the attaches of the commission amounted to \$57,400, and during that time the commission has spent \$70,000. Can you tell how much of that \$12,600 was spent in traveling expenses of the commissioners and secretary?  
 Mr. BUSBEY. I could not give you that now. I can furnish it to you.  
 The CHAIRMAN. I wish you would.  
 Mr. BUSBEY. I was not informed as to the desire of the committee; I just received a telephone message asking me to come up, and, as I said to you in the beginning, Mr. Towney had been informed that this estimate had been transferred to the Committee on Appropriations, and he appeared before that committee and gave them all the information asked for. I can furnish it to you.  
 The CHAIRMAN. I would be much obliged to you if you would.  
 Mr. BUSBEY. Yes.  
 Mr. HARRISON. When did Mr. Towney appear before that committee?  
 Mr. BUSBEY. I will not say definitely, but he was here two weeks ago. As I remember, he prepared a statement for them, but the exact date as to when he prepared that statement or appeared before the committee, I do not know.  
 Mr. CLINE. On January 1, this year, you had \$80,000 to the credit of the commission. Now you are asking for \$75,000 more. That is \$155,000 for the use of the commission from January 1, 1913, to June 30, 1914.  
 Mr. BARTHOLOTT. A year and a half.  
 Mr. MCKINLEY. Does this revert back the 1st of July, as other appropriations do?  
 Mr. CLINE. I understand not.  
 Mr. KENDALL. The appropriation is of all unexpended balances, Mr. McKinley.  
 Mr. CLINE. Yes. What I want to know, briefly, is what this estimate of \$155,000 is to be used for. What do you expect this to be needed for?  
 Mr. BUSBEY. The sanitary experts estimate that the investigation of the pollution of boundary waters, which is very extensive, will cost anywhere from \$30,000 to \$40,000 in itself.  
 The CHAIRMAN. But you have been in existence only two years, and you have spent \$70,000; now, for the next year and a half you want \$155,000.  
 Mr. KENDALL. Well, Mr. Chairman, I think Mr. Busbey has made it clear about their embarking upon some investigations that are necessary, I suppose, extensive.  
 Mr. BUSBEY. They will necessarily be extensive.  
 Mr. FAIRCHILD. Mr. Busbey, what is the point of controversy as to the maintenance of the water level there?  
 Mr. BUSBEY. In the Lake of the Woods?  
 Mr. FAIRCHILD. Yes.  
 Mr. BUSBEY. I would say there are extensive power plants on the Rainy River at Koochiching Falls, above the Lake of the Woods, about 50 miles. There are extensive power plants at the mouth of the Winnipeg River, at the outlet of the Lake of the Woods.  
 Mr. FAIRCHILD. Where is the Lake of the Woods?  
 Mr. BUSBEY. On the boundary line between the State of Minnesota and the Province of Ontario and Manitoba.  
 Mr. TOWNSEND. Is fishing pretty good up there, Mr. Busbey?  
 Mr. BUSBEY. I have had no experience in that; I did not try the fishing. [Laughter.]  
 The CHAIRMAN. Have you had any questions about the diversion of water below the Niagara Falls before your commission?  
 Mr. BUSBEY. No.  
 Mr. BARTHOLOTT. The three questions which you have mentioned and which the commission has under investigation now—were they taken up by the commission on their own initiative or were they referred to them by the State Department?  
 Mr. BUSBEY. They were referred to them by the joint action of the two Governments.  
 Mr. BARTHOLOTT. The two Governments?  
 Mr. BUSBEY. By letter from the ambassador of Great Britain to the Secretary of State.  
 Mr. BARTHOLOTT. And from that we are to infer that the State Department would not have had the time or means of solving the question themselves?  
 Mr. TOWNSEND. You might infer that or you might infer that the good-natured Secretary of State was trying to give this commission something to do to save their faces. When it comes to inferences, one inference is as good as another.  
 Mr. BARTHOLOTT. Yes; but I was serious in what I was saying.  
 Mr. TOWNSEND. The doctor is always serious. I will give him credit for that. So am I.  
 Mr. KENDALL. Did not Gen. Bixby make a very elaborate report in the matter of pollution of boundary waters, Mr. Busbey?  
 Mr. BUSBEY. Gen. Bixby?  
 Mr. KENDALL. Yes.  
 Mr. BUSBEY. I think not. Dr. McLaughlin, of the Public Health Service, made an elaborate report, which is published in two bulletins of the Public Health Service.  
 Mr. KENDALL. Dr. McLaughlin is connected with the Government, is he?  
 Mr. BUSBEY. Mr. McLaughlin has been connected with the Public Health Service for some years. I will say there that when the commission took up this question of the pollution of boundary waters the commissioners on the part of the United States consulted Dr. Blue, Surgeon General of the Public Health Service, as to the best methods and the best man to employ as an expert. He suggested to them that Dr. McLaughlin's experience and qualifications for that were equal if not superior to any man he knew in the country, and on the request of the American members of the commission the Secretary of the Treasury has given Dr. McLaughlin a leave of absence without pay that he may take up this work for the commission.

Mr. KENDALL. He has prosecuted a very elaborate investigation and has published a report dealing with the questions that are to be considered by the commission?

Mr. BUSBEY. His report deals with international and interstate waters, but deals with that question from the standpoint of the United States alone.

Mr. KENDALL. Yes; and he has submitted detailed recommendations about what should be done?

Mr. BUSBEY. He is preparing now detailed recommendations, in conference with the expert from the Canadian side, as to the method of conducting this investigation, to begin in March, when the flood waters occur. As to the question of pollution of boundary waters, that involves the question of whether the pollution extends from one side to the other. Article 4 provides: "It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of the health or the property on the other"; and that is the question.

Mr. CLINE. Mr. Busbey, do you expect to get any further additional facts than you already have on that from this report made by this gentleman?

Mr. BUSBEY. They are preparing to make this investigation this summer, the two experts.

Mr. CLINE. The same expert that has already made the investigation?

Mr. BUSBEY. I beg your pardon. His investigation attached only to American waters and did not extend across the boundary. The commission held a meeting at Buffalo in December—

Mr. KENDALL. Coming back to this canal at Detroit, that \$10,000,000 you say has been already expended in the construction of the canal?

Mr. BUSBEY. The channel—deepening the channel there.

Mr. KENDALL. And that work was done under the supervision of the Army engineers by the United States?

Mr. BUSBEY. Yes.

Mr. KENDALL. And at that time the Army engineers formulated plans, I believe, relating to the whole question and submitted them?

Mr. BUSBEY. Yes.

Mr. KENDALL. They were adopted, and the channel has been constructed?

Mr. BUSBEY. Yes.

Mr. KENDALL. Your commission has power to print, of course?

Mr. BUSBEY. We were only given that power in the last appropriation bill. We have not done any printing, though.

Mr. KENDALL. You have not done any printing with reference to the action of the commission up to this time?

Mr. BUSBEY. No.

Mr. KENDALL. Are its records available so that the committee might examine to see what progress has been made in the work of the commission?

Mr. BUSBEY. Yes.

Mr. KENDALL. Take this Lake of the Woods proposition, for instance: You had hearings there, did you not?

Mr. BUSBEY. Yes.

Mr. KENDALL. Are not those printed?

Mr. BUSBEY. No. We have them in typewritten form. The commission thought that, as these were preliminary hearings, they were not of sufficient importance to print for public distribution, but reserved them as the records for anyone who cared to see them and did not go to the expense of printing them.

Mr. KENDALL. Mr. Chairman, will you ask the chairman of the Committee on Appropriations for the hearings that were had down there also?

The CHAIRMAN. Yes.

Mr. COOPER. Your offices are in the Southern Building, are they not?

Mr. BUSBEY. Yes.

Mr. COOPER. What rent are you paying for those offices?

Mr. BUSBEY. \$2,500.

The CHAIRMAN. What does the stenographer get?

Mr. BUSBEY. The clerk and stenographer—there is only one man.

Mr. KENDALL. He is a \$2,200 man?

Mr. BUSBEY. He is a \$2,200 man.

Mr. COOPER. He is here in Washington all of the time?

Mr. BUSBEY. Yes.

Mr. COOPER. In Washington, in the Southern Building?

Mr. BUSBEY. Yes.

The CHAIRMAN. How many offices are there in the suite?

Mr. BUSBEY. We have a room for each of the commissioners and one for the secretary and clerk together, and a board room.

Mr. COOPER. Five rooms?

Mr. BUSBEY. And we have a room for the Canadian members—a conference room.

The CHAIRMAN. Six rooms in all?

Mr. BUSBEY. Six.

Mr. COOPER. Could not the conference meet in the board room?

Mr. BUSBEY. Senator Carter, when he selected the offices, said: "I think it would be a courteous matter to have a room where, when the commission is in session in the board room, should Canadian members desire to confer among themselves, they might have an office which they could call their own and feel perfectly at home; where their secretary might keep their papers and where they might dictate letters or prepare letters or anything they wanted to do."

Mr. BARTHOLOLT. Have the Canadian commissioners an office at Ottawa?

Mr. BUSBEY. Yes. They treat the American members in the same way. There is a room for the American members whenever they go there for their conference.

Thereupon the committee went into executive session.

Mr. CANNON. I want to say here that Mr. Busbey is not a Member of this House—

Mr. MANN. But he is the peer of those fellows who have been attacking him.

Mr. CANNON. He is the peer of decent, honest men, and for average ability, I was about to say, of any Member of this House—is certainly my peer and that of the gentleman from New Jersey, intellectually and in every way—and as he can not be heard I am perfectly willing that this statement shall go in the RECORD to speak for itself, and I would like to have that done.

Mr. TOWNSEND. Will the gentleman yield?

Mr. CANNON. I will.

Mr. TOWNSEND. I simply want to pay a tribute to Mr. Busbey.

Mr. CANNON. Oh, no.

Mr. TOWNSEND. I do, indeed.

The CHAIRMAN. The gentleman declines to yield.

Mr. TOWNSEND. I desire to pay a tribute.

Mr. CANNON. Regular order! The gentleman can pay a tribute in his own time.

Mr. TOWNSEND. I move to strike out the last four words.

Mr. CANNON. It would be a tribute to a man after—but I will just stop there, because I might say something that would be out of order.

Mr. MANN. Mr. Chairman, I ask for the regular order.

Mr. FITZGERALD. Mr. Chairman, I want to make a statement.

Mr. KENDALL. Regular order, Mr. Chairman.

Mr. FITZGERALD. The gentleman from New Jersey [Mr. TOWNSEND] made a statement about the rooms occupied by this commission, and in justice to the members of that commission I believe it is proper that I should make a statement about it. When Mr. Tawney was chairman of the Committee on Appropriations I was one of a committee, and the gentleman from Illinois [Mr. MADDEN] was another, who were appointed by him to visit rented quarters in this city, for the purpose of eliminating abuses in connection with the renting of property for public purposes. After this commission was organized and the question of acquiring accommodations arose, he came to see me and explained the situation, which, in the opinion of the commission, necessitated certain offices. It was determined that a board room, where the court could sit, was required. There was also provided an office for the chairman of the American commission and one for the Canadian commission, and the other members were bunched together.

Mr. TOWNSEND. Oh, no.

Mr. FITZGERALD. The gentleman said they had six rooms.

Mr. TOWNSEND. They had six rooms, according to the testimony of the secretary of the commission.

Mr. FITZGERALD. That includes a board room and a general office and other offices.

Mr. FLOOD of Virginia. Each of the American commissioners have an office, and then there is an office for the Canadian commission.

Mr. TOWNSEND. To which they all retired when they went to vote.

Mr. FLOOD of Virginia. And an office for the secretary.

Mr. FITZGERALD. The Canadian Government had supplied the commission with accommodations at Ottawa. The commission was to sit at one time at Ottawa and another time in Washington.

There have been some statements about members of this commission. I know two of them intimately. One is former Senator Turner, of Washington, one of the most eminent authorities on international law in this country. So highly is he regarded that, although a Democrat, he was appointed because of his great legal ability by a Republican President to represent this country before a joint high commission on certain fisheries questions. The other is Mr. Tawney. I assert that no more patriotic, honest, industrious, level-headed man served in this House in the last half century. He sacrificed his place in this House, after a service here of 18 years, because of his conscientious devotion to duty. He declined to permit the Executive to swerve him from the path that he thought was right. What defeated Mr. Tawney in his campaign for reelection was President Roosevelt's speech at the conservation convention at St. Paul, which was made because Mr. Tawney had put an end to all the illegal methods of the President and had prevented the improper use of public money for illegal commissions.

This commission was legally created. Before the gentleman from New Jersey [Mr. TOWNSEND] came in statements were made which demonstrated the reasons for the failure of the commission to meet in Washington—

Mr. FLOOD of Virginia. I must interrupt the gentleman there.

Now, the Canadian commission was certainly appointed and organized before the beginning of the calendar year 1912, and during the whole of that year this commission was in session less than four weeks. That is the testimony of the secretary of the commission.

Mr. FITZGERALD. If the gentleman understood the treaty and the things that led up to its negotiation and the purpose to be accomplished, he would know that the greater part of the work will be done not in joint session, but when the commission is not in joint session.

Mr. MANN. Will the gentleman from New York [Mr. FITZGERALD] yield?



Mr. FITZGERALD. Yes.

Mr. MANN. The members of the Committee on Foreign Affairs get \$7,500 a year each for services, most of which is committee services. Does the gentleman think the members of the committee have been in service for a hundred hours during all of last year?

Mr. FITZGERALD. I do not wish to discuss collateral matters. I made a point of order on this item because I believed it belonged to the Committee on Appropriations. I have no controversy with these gentlemen for insisting on their contention that the Committee on Foreign Affairs has jurisdiction. It was merely a question of order under the rules and usages of the House. I believe that in justice to these men, whether they are to continue or not to continue on this commission, they should not be unjustly put in a position of being grabbers of public funds, and I know that no mere tyros or novices can discharge the important functions that properly belong to that commission.

Mr. KENDALL. Mr. Chairman, I demand the regular order.

Mr. TOWNSEND. Mr. Chairman, I move to strike out the last four words.

Mr. FLOOD of Virginia. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from New Jersey [Mr. TOWNSEND] is recognized.

Mr. TOWNSEND. Mr. Chairman, I move to strike out the last four words.

Mr. FLOOD of Virginia. Mr. Chairman, I withdraw my motion that the committee rise.

The CHAIRMAN. The gentleman from Virginia [Mr. FLOOD] withdraws his motion.

Mr. TOWNSEND. Mr. Chairman, I simply want to remark that this recent alliance between the gentleman from New York [Mr. FITZGERALD] and the gentleman from Illinois [Mr. MANN] has resolved itself into a very entertaining situation.

The gentleman from New York comes to us on one day and lectures us severely on the extravagance of the House, and on the next day he comes before us and, with the same severity of voice and with the same capacity for lecturing, criticizes us because we are not extravagant. The gentleman from Illinois—

Mr. FITZGERALD. If the gentleman will permit me, I have not referred to the amount carried by this item at all.

Mr. TOWNSEND. Mr. Chairman, I have the floor. I refuse to yield.

The CHAIRMAN. The gentleman refuses to yield.

Mr. FITZGERALD. But the gentleman ought not to make inaccurate statements about me.

Mr. TOWNSEND. The gentleman from Illinois [Mr. MANN] suggests that the members of the Committee on Foreign Affairs are not earning their salaries.

Mr. MANN. I did nothing of the kind, although I might say it.

Mr. TOWNSEND. I am capable of deducing from the gentleman's language what the gentleman from Illinois intended the House to believe. Unfortunately, the Constitution did not provide that the Congress should consist of the gentleman from Illinois [Mr. MANN], who should have this power and that power and the other power. [Laughter.] It gives equal power and authority and right to each Member elected here.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I ask unanimous consent, Mr. Chairman, that the gentleman be permitted to proceed five minutes more.

Mr. TOWNSEND. It is unfortunate that we are compelled to listen to the lectures of the gentleman as to his superior merits, qualities, and abilities.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I ask that the gentleman may have five minutes more in which to make a further exhibition of himself. He makes an exhibition of himself now, and I hope he will be permitted to complete it.

Mr. FLOOD of Virginia. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Virginia [Mr. FLOOD] moves that the committee rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RUCKER of Missouri, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28607) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1914, and had come to no resolution thereon.

#### ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 4043. An act divesting intoxicating liquors of their interstate character in certain cases.

#### HOURLY OF MEETING TO-MORROW.

Mr. FLOOD of Virginia. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning.

The SPEAKER. The gentleman from Virginia asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

#### ADJOURNMENT.

Mr. FLOOD of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p. m.) the House adjourned, pursuant to the order, until to-morrow, Friday, February 14, 1913, at 11 o'clock a. m.

#### EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting supplemental estimate of appropriation to commence the construction of necessary buildings for the accommodation of one additional regiment of Cavalry on military reservation of Fort Oglethorpe, Ga. (H. Doc. No. 1395); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting supplemental estimate of appropriation for pay of enlisted men, Quartermaster Corps, and additional pay for length of service for the fiscal year 1914 (H. Doc. No. 1394); to the Committee on Military Affairs and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of Commerce and Labor transmitting sworn statements of the value of the personal effects of the officers and crew of the lighthouse tender *Armeria*, wrecked May 20, 1912, and recommending an appropriation to pay same (H. Doc. No. 1393); to the Committee on Claims and ordered to be printed.

4. A letter from the Commission for Enlarging the Capitol Grounds, transmitting report (H. Doc. No. 1392); to the Committee on Appropriations and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HOWLAND, from the Committee on the Judiciary, to which was referred the resolution (H. Res. 802) requesting the President of the United States to furnish the House of Representatives with all the affidavits, charges, corroborating evidence, letters, and other official documents in the case of Willard N. Jones, reported the same with amendment, accompanied by a report (No. 1513), which said bill and report were referred to the House Calendar.

Mr. DUPRE, from the Committee on the Judiciary, to which was referred the bill (H. R. 28635) to amend section 81 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and for other purposes, reported the same without amendment, accompanied by a report (No. 1514), which said bill and report were referred to the House Calendar.

Mr. BROUSSARD, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 28632) to authorize the construction of a bridge across Twelve Mile Bayou, in Caddo Parish, reported the same without amendment, accompanied by a report (No. 1515), which said bill and report were referred to the House Calendar.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WHITE, from the Committee on Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 28746) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain

soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, accompanied by a report (No. 1512), which said bill and report were referred to the Private Calendar.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. WHITE: A bill (H. R. 28746) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; to the Committee of the Whole House.

By Mr. FRENCH: A bill (H. R. 28747) reserving from the public lands in Idaho as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described; to the Committee on the Public Lands.

By Mr. BERGER: Resolution (H. Res. 830) to investigate the censorship of the Post Office Department over second-class mail matter; to the Committee on Rules.

By Mr. WILLIS: Resolution (H. Res. 831) for printing additional copies of Bulletin No. 85, Bureau of Soils; to the Committee on Printing.

By Mr. RICHARDSON: Resolution (H. Res. 832) authorizing the payment of \$1,200 to Joseph M. McCoy for extra and expert services rendered to the Committee on Pensions during the third session of the Sixty-second Congress; to the Committee on Accounts.

By Mr. EVANS: Resolution (H. Res. 833) authorizing the Speaker to appoint three counselors; to the Committee on the Library.

By Mr. ROBERTS of Massachusetts: Resolution (H. Res. 834) providing for reprinting Senate Document No. 1018; to the Committee on Printing.

By Mr. PETERS: Joint resolution (H. J. Res. 399) authorizing the Joint Committee on Printing to publish a bulletin of committee hearings; to the Committee on Printing.

By Mr. JOHNSON of Kentucky: Joint resolution (H. J. Res. 400) regulating rates of hotels, lodging houses, boarding houses, cafés, restaurants, and similar places of abode and entertainment in the city of Washington; to the Committee on the District of Columbia.

By Mr. HAWLEY: Memorial of the Legislature of the State of Oregon, favoring Senate bill 8003, for the construction, improvement, and maintenance of post roads and rural delivery routes through the cooperation and joint action of the United States and the several States wherein said routes are located; to the Committee on the Post Office and Post Roads.

Also, memorial of the Legislature of Oregon, favoring the continued operation of the Weeks law for the protection of the watersheds of navigable streams from fire, and for further appropriation to continue the same; to the Committee on Agriculture.

Also, memorial of the Legislature of the State of Oregon, favoring the amendment of section 5 of the reclamation act of June 17, 1902, so as to make the time for payments thereunder extend for a period not exceeding 25 years; to the Committee on Irrigation of Arid Lands.

By Mr. STEPHENS of California: Memorial of the Legislature of the State of California, favoring the bill of Senator NEWLANDS to create a board of river regulation, etc.; to the Committee on Rivers and Harbors.

By Mr. NEEDHAM: Memorial of the Legislature of the State of California, favoring the bill of Senator NEWLANDS to create a board of river regulation, etc.; to the Committee on Rivers and Harbors.

By Mr. RAKER: Memorial of the Legislature of California, favoring the Newlands bill creating a board of river regulation; to the Committee on Rivers and Harbors.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BYRNS of Tennessee: A bill (H. R. 28748) granting a pension to Henry S. Robert; to the Committee on Pensions.

By Mr. DICKINSON: A bill (H. R. 28749) granting a pension to James W. Scott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28750) granting an increase of pension to Patrick Gallagher; to the Committee on Invalid Pensions.

By Mr. GARRETT: A bill (H. R. 28751) granting an increase of pension to Eliza J. Whitson; to the Committee on Pensions.

Also, a bill (H. R. 28752) granting an increase of pension to Hudson J. Martin; to the Committee on Invalid Pensions.

By Mr. McCALL: A bill (H. R. 28753) granting a pension to Mary E. Mullen; to the Committee on Pensions.

By Mr. MANN: A bill (H. R. 28754) granting an increase of pension to Henry Haddock; to the Committee on Invalid Pensions.

By Mr. PETERS: A bill (H. R. 28755) for the relief of John J. Kane; to the Committee on Claims.

By Mr. POST: A bill (H. R. 28756) granting an increase of pension to William G. Irwin; to the Committee on Invalid Pensions.

By Mr. YOUNG of Kansas: A bill (H. R. 28757) granting an increase of pension to W. H. Mize; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28758) granting an increase of pension to Samuel G. H. Whitley; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BYRNS of Tennessee: Papers to accompany bill granting a pension to Henry S. Robert; to the Committee on Pensions.

By Mr. CALDER: Petition of the Bird Lovers' Club, Brooklyn, N. Y., favoring the passage of the McLean bill, granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of citizens of Brooklyn, N. Y., and members of the New York Produce Exchange, favoring the passage of House bill 3010, for the regulation of the transmission of messages by telephone and telegraph; to the Committee on Interstate and Foreign Commerce.

By Mr. FORNES: Petition of the Sailors' Union of the Atlantic, relative to the payment of the crews of the Panama Steamship Line, and the special privileges granted to said company, which is controlled and owned by the United States Government; to the Committee on Interstate and Foreign Commerce.

By Mr. GARRETT: Papers to accompany bill granting an increase of pension to Hudson J. Martin; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting an increase of pension to Eliza J. Whitson; to the Committee on Pensions.

By Mr. KINKAID of Nebraska: Petition of citizens of Holt County, Nebr., protesting against the passage of legislation placing burdensome conditions or qualifications on rural wagon salesmen of domestic and stock remedies, spices, extracts, and toilet articles; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVY: Petition of the New York State Conference on Taxation, Binghamton, N. Y., favoring the passage of legislation providing for the extension of the work of the Census Department; to the Committee on the Census.

Also, petition of the Downtown Taxpayers' Association, Brooklyn, N. Y., favoring the insertion of a clause in the naval appropriation bill providing for the building of one of the new battleships in a Government navy yard; to the Committee on Naval Affairs.

By Mr. MANN: Petition of the Chicago Woman's Club, Chicago, Ill., protesting against the passage of any legislation tending to destroy the present national system of the protection of forests; to the Committee on Agriculture.

By Mr. MOTT: Petition of the New York State Conference on Taxation, Binghamton, N. Y., favoring the passage of legislation for the extension of the work of the Census Department; to the Committee on the Census.

By Mr. NEEDHAM: Petition of the Christian Church of Modesto, Cal., and other citizens of Modesto and Oakdale, Cal., favoring the passage of the Kenyon "red-light" injunction bill, for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of members of the faculty and students of the University of Redlands, Redlands, Cal., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the California State Board of Forestry, favoring the passage of legislation making further appropriations for Federal aid for the protection of forested watersheds of navigable streams; to the Committee on Agriculture.

By Mr. TALCOTT of New York: Petition of the Sailors' Union of the Atlantic, New York, relative to the payment of the crews of the Panama Steamship Line and the special privileges granted to said company, which is controlled and owned by the United States Government; to the Committee on Interstate and Foreign Commerce.



By Mr. WILLIS: Papers to accompany bill (H. R. 26453) granting an increase of pension to Helen G. Davis; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the Downtown Taxpayers' Association, Brooklyn, N. Y., favoring the insertion of a clause in the naval appropriation bill providing for the building of one of the new battleships in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of the New York State Conference on Taxation, Binghamton, N. Y., favoring the passage of legislation for the extension of the work of the Census Department; to the Committee on the Census.

Also, petition of the Central Labor Union of Brooklyn, N. Y., favoring the insertion of a clause in the naval appropriation bill providing for the building of one of the new battleships in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

## SENATE.

FRIDAY, February 14, 1913.

(Legislative day of Tuesday, February 11, 1913.)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

### CONNECTICUT RIVER DAM.

The PRESIDENT pro tempore (Mr. BACON). The Senate resumes the consideration of Senate bill 8033.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Mr. BRANDEGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Connecticut suggests the absence of a quorum. The Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Johnson, Me.	Sheppard
Bacon	Crawford	Johnston, Ala.	Smith, Ga.
Bankhead	Culberson	Jones	Smith, Md.
Borah	Cullom	Kenyon	Smith, Mich.
Bourne	Curtis	Kern	Smoot
Bradley	Dillingham	La Follette	Stephenson
Brady	Dixon	Lippitt	Sutherland
Brandegee	du Pont	Lodge	Thomas
Brown	Fall	McLean	Thornton
Bryan	Fletcher	Martin, Va.	Tillman
Burham	Gallinger	Martine, N. J.	Townsend
Burton	Gamble	Myers	Warren
Catron	Gardner	Overman	Webb
Chamberlain	Gronna	Page	Williams
Chapp	Gugenhelm	Perkins	Works
Clark, Wyo.	Jackson	Richardson	

Mr. ASHURST. I have been requested to announce that the junior Senator from New York [Mr. O'GORMAN] is absent on public business. I will let this announcement stand for the day.

Mr. KERN. I was requested to announce the unavoidable absence of the Senator from South Carolina [Mr. SMITH].

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 63 Senators have responded to their names, and a quorum of the Senate is present.

Mr. BRANDEGEE. Mr. President, I gave notice yesterday afternoon, just before we took the recess, that I would this morning, having failed in several previous attempts, ask the unanimous consent of the Senate to vote upon the pending bill at a certain hour upon a certain day.

This bill, providing for the building of a dam across the Connecticut River, has, by unanimous consent, been the order of business exclusively before this body ever since last Tuesday, and this will have been the fourth day that the Senate has devoted its whole time to the discussion of the bill, which, except for one provision in it, would have been passed in the morning hour by unanimous consent.

I think we have devoted enough time to the discussion of the question. It has been made the vehicle for the discussion of the whole question of conservation, and, in my judgment, it should not be made the boat to carry ashore all the various projects that exist in the minds of men upon the conservation question. I think four days is enough to devote to the bill. No Senator can introduce a bill or present the report of a committee; no one can transact any morning business in the Senate.

We have about 12 more legislative days for the conclusion of the business of the present Congress, and it seems to me to be absurd and preposterous to have this measure, which is designed to dam the Connecticut River, damming the whole business of

the Nation and obstructing the legislation of the United States of America.

Senators have made up their minds how they are going to vote on this question. I for one am ready, and have been for two or three days, to vote upon it. I think other Senators are ready to vote if they will waive their general conservation speeches and make them on some other measure and let us finish the business of this Congress.

In view of those sentiments, which I have attempted briefly to express, I ask unanimous consent that a vote be taken on the measure, in accordance with the terms of the unanimous-consent agreement which stands upon the front page of the calendar, not later than 5 o'clock next Monday afternoon.

Mr. BANKHEAD. Mr. President, speaking for myself I can see no reason why consent should not be given to vote upon the bill next Monday at 5 o'clock, and I hope that unanimous consent will be given to that effect.

Mr. BORAH. Mr. President, if this consent is given would it remove this measure as a bar to the further transaction of business on other matters?

Mr. BRANDEGEE. Not to-day; not until Monday.

Mr. BORAH. Then there is not very much consolation in the request.

Mr. BRANDEGEE. We can get through on Monday. If the Senator is willing to have the vote taken to-day, I would be very happy to ask unanimous consent that the vote be taken not later than 5 o'clock this afternoon.

Mr. GALLINGER. Why not ask that that be done?

Mr. BRANDEGEE. I asked that the time be fixed for Monday on the suggestion of the Senator from Alabama [Mr. BANKHEAD], who informed me that several Senators on the other side of the Chamber wish to discuss the measure further, and I did not want to restrict anybody in his rights.

Mr. BANKHEAD. My reason for suggesting to the Senator from Connecticut that he make his request for Monday at 5 o'clock was because several Senators desire to make some remarks upon the bill before the vote is taken. To-day must be consumed by the consideration of appropriation bills, or so much of the day as is necessary; to-morrow we can do no legislative business; and on Monday I thought the Senators who desire to address themselves on the bill would have an opportunity before the hour suggested for voting.

Mr. BORAH. I am not objecting to the consent. I was in the hope, however, that as we were violating the unanimous-consent agreement by making this agreement, we might also remove it as a bar to the further transaction of business.

Mr. BRANDEGEE. If the Senator will allow me to say so, I am heartily in accord with his motive and with what he says. I do not consider, however, that we are violating the unanimous-consent agreement that stands upon the face of the calendar simply by fixing an hour on the legislative day when we will take the vote, so that Senators may be warned and be here.

Mr. BORAH. As I said, I am not going to object. Both the Senator from Massachusetts [Mr. LODGE] and the Senator from New Hampshire [Mr. GALLINGER] think that it is perfectly proper, and they are good authority on parliamentary questions, but there are a great many precedents against it. I presume, however, that this may be considered as establishing once for all in the Senate that this kind of an agreement is not a violation of such a unanimous-consent agreement.

Mr. LODGE. We make a further agreement to fix a time in the same legislative day to vote. That has been done repeatedly.

Mr. BORAH. It has been done repeatedly, but several times within the last few months it was refused.

Mr. LODGE. Unanimous-consent agreements to conclude a bill on a legislative day are comparatively new in the Senate, and I think they are a very poor kind of unanimous-consent agreements. I think we ought to fix an hour for voting.

Mr. BORAH. This establishes a precedent in the future.

Mr. BRANDEGEE. I do not think it establishes a precedent. It is in accordance with several precedents which have been made. For instance, on April 18, 1912, the Senate agreed by unanimous consent, which I have here in my hand, to vote upon the bill known as the compensation of railway employees, and upon May 2, 1912, it further agreed that "on Monday next, not later than 4 o'clock, the Senate will proceed without further debate," and so forth, to vote upon that bill. There are plenty of precedents for the action.

Mr. GALLINGER. Mr. President, I desire simply to say that if we agree to vote upon this bill on Monday next we will be voting upon the legislative day fixed originally.

Mr. BRANDEGEE. Of last Tuesday.

Mr. GALLINGER. Of last Tuesday. It does seem to me that it is competent for us to do that under the rules of the Senate or the customs of the Senate.